Ontario Ministry of Consumer and Commercial Relations
Larry Grossman, Q.C.
Minister

Policy options for continuing tenant protection

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February 10, 1978

POLICY OPTIONS FOR CONTINUING TENANT PROTECTION

The Policy Options for Continuing Tenant Protection paper which I am releasing today describes many of the alternatives in determining the future of tenant protection in the Province of Ontario.

I am distributing the Policy Options paper at this early date in order to provide ample opportunity for all members of the public to play a direct role in determining the policy.

I am looking for wide public input and maximum participation in the dialogue resulting from the Policy Options paper and I intend to get the process underway immediately.

Responses to the alternatives outlined here, or indeed further variations or suggestions you might have to offer, should be sent directly to me so that I have immediate and personal knowledge of your comments.

I look forward to this exercise in public dialogue and policy formulation.

Yours very truly,

The Honourable Larry Grossman, Q.C.

February 1, 1978

The Honourable Larry Grossman
Minister of Consumer &
Commercial Relations

Sir,

I am pleased to submit to you this paper entitled "Policy Options For Continuing Tenant Protection".

This constitutes the Green Paper you have requested regarding options for continuing tenant protection. It has been prepared by an interministerial committee of senior public servants, chaired by myself.

It is our hope that by focusing on the issues involved and some of the alternative policy options that may be considered, this paper will serve as a basis for constructive debate and will prove to be of assistance to the Government in determining an appropriate course to follow in the post rent review period.

W.M. Robbins
Executive Director
Rent Review Program

Preface

The Ontario Rent Review Program came into existence on December 18, 1975 with the passage of The Residential Premises Rent Review Act.

The legislation, and the program it created, were somewhat unique to present-day Ontario. With the exception of historical regulatory powers in a few selected areas, it has not been necessary for such major government intervention in a free market since the end of World War II. The legislation was complementary to the Federal Government's Anti-Inflation program and was initially structured to end on July 31, 1977.

On March 29, 1977, the Ontario Government announced an extension of the Rent Review Legislation to the end of December 1978 in the Speech from the Throne for the Fourth Session of the Thirtieth Parliament of the Province of Ontario. This action extended the period of rent controls from the original 24 months to 41 months.

At the same time, the Throne Speech announced that measures would be taken to stimulate the production of rental housing accommodation and that the Government would be placing before the people policy options for the continuing protection of tenants. It is this latter commitment that this Green Paper attempts to meet.

The paper has been drafted by a small group of senior Public Servants from the Ministries of Consumer and Commercial Relations, Housing and the Attorney General. It provides a useful background of information and analysis against which public discussion will unfold.

A Green Paper neither makes recommendations nor announces courses of action the Government believes should be pursued. Rather, by focusing on the issues involved and some alternative policy options that may be considered, this paper is intended to serve as a basis for constructive debate, and to stimulate thinking about the legitimate concerns of both landlords and tenants.

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Section A
Understanding the issues

Introduction

Ontario's current Rent Review Program was conceived as a temporary program, complementary to the Federal Government's Anti-Inflation Program. It is scheduled to expire on December 31, 1978. The Ontario Government has announced that it will continue a program of protection of tenants beyond 1978 and this paper will attempt to outline some of the options that the government may consider in devising such a program.

Concern for the continuing protection of tenants necessitates considering both short and longer term implications and, in addition, matters other than simply rents.

There is, in the short term, for example, concern for the unconscionable rent increase and its effect on the security of tenure of the tenant involved as well as the stigma such increases place on the residential rental housing industry. In the longer term, there is concern for a continuing adequate supply of rental accommodation at prices affordable to tenants and the effects that legislation and regulation governing the industry may have on such a continuing adequate supply.

During the course of the current Rent Review Program it has become apparent that tenants are not simply interested in rents per se, but rather are interested, as well, in the services, comforts and enjoyment that their rent is perceived to buy. Rent Review hearings have, for the first time, given tenants a forum in which they can express their concerns about the rental accommodation in which they make their homes.

By and large, many of these matters are within the jurisdiction of The Landlord and Tenant Act and Rent Review Officers have not had the authority to deal with them adequately. While the Rent Review hearing forum has provided an opportunity to have landlords and tenants face their concerns together, many have remained unresolved, with the only remaining recourse for resolution the already burdened courts.

From the foregoing, it may be discerned that consideration of policies for the continuing protection of tenants should encompass concerns for the overall performance of the housing sector and landlord and tenant law, as well as the regulation of rents. It is the intention of this paper, therefore, to consider these matters and their inter-relationships and to set out for discussion important considerations affecting policy alternatives relating not only to Rent Review but also to residential tenancy law and to housing and related policies.

It is apparent that a diversity of views exist about the various impacts of Rent Review. Landlords, tenants, and other interested parties differ from each other in their interpretation of policy considerations. While there is considerable diversity of position between each group, there are also important common interests between the parties involved. For example, it is in the mutual interest of both landlords and tenants to have the rental housing sector continue to provide an adequate supply of sound, affordable accommodation. Tenants would not benefit from bankrupt landlords nor would landlords gain from having tenants with severe financial problems. A healthy rental sector requires mutual acceptance by landlords and tenants of the others' legitimate needs.

Housing in Ontario, as in North America generally, has involved a mixture of public and private participation. Historically, the private sector has been the main delivery system for housing production, and over 90 percent of Ontario's rental housing is privately owned. In part, this emphasis on private activity has reflected the beliefs of the majority of Ontario citizens in the primacy of private decisions. It also reflects a basic satisfaction with the standard of housing production set by the private sector.

To say that the public role in rental housing has been secondary is not to say that it has not been of importance. Indeed, public involvement has been essential in many respects. It has long been recognized that governments, at several levels, have an interest in coordinating private activity by means of establishing a sound planning framework. It is widely accepted that governments assist those of low income to obtain suitable accommodation. In addition, only government can provide the legal and institutional arrangements necessary for the regulation of landlord and tenant relations. Finally, the public sector has frequently provided assistance to the private sector at times of slow building activity or in areas of the province where the economics of building do not meet social needs.

The limits to public involvement always include financial considerations. There are many claims on public funds and, appropriately, there is always resistance to any form of higher taxation. These considerations have assumed increased importance due to both public demand and to the economic requirement for public expenditure constraint. Accordingly, any argument in favour of government involvement or activity must stand the test imposed by financial restraints.

In considering the private role, it is essential to recognize the importance of the prospect of an adequate return to the investor. In the absence of an adequate return, new rental investment will not occur as funds will go elsewhere, into other investments or to other geographic areas. In the case of existing buildings, an insufficient return discourages the investment of the additional funds necessary for adequate maintenance and repair of the building with the result that the quality of accommodation diminishes. Accordingly, any policy must include provision for an adequate return, if continued private involvement is to be assured.

The overall purpose of this paper is to serve as a focal point for discussion on the range of issues outlined. To this end the paper will:

- trace the factors leading up to the control of rents (Chapter I);
- explore the operation of the rental housing market under Rent Review (Chapter II);
- review the recent development of residential tenancy law in Canada (Chapter III);
- examine the functions performed by residential tenancy boards and tribunals (Chapter IV); and
- set out and comment on some of the policy alternatives that should be considered in the ensuing debate (Chapters V, VI and VII).

It is hoped that the interested parties will give full consideration to the views presented and that they, in turn, will be willing to share their views with the government. A fuller understanding of issues involved is the best way to better policy.

Chart 1-1
Per cent of households owned and rented 1974

Source: CMHC 1974 survey of housing units

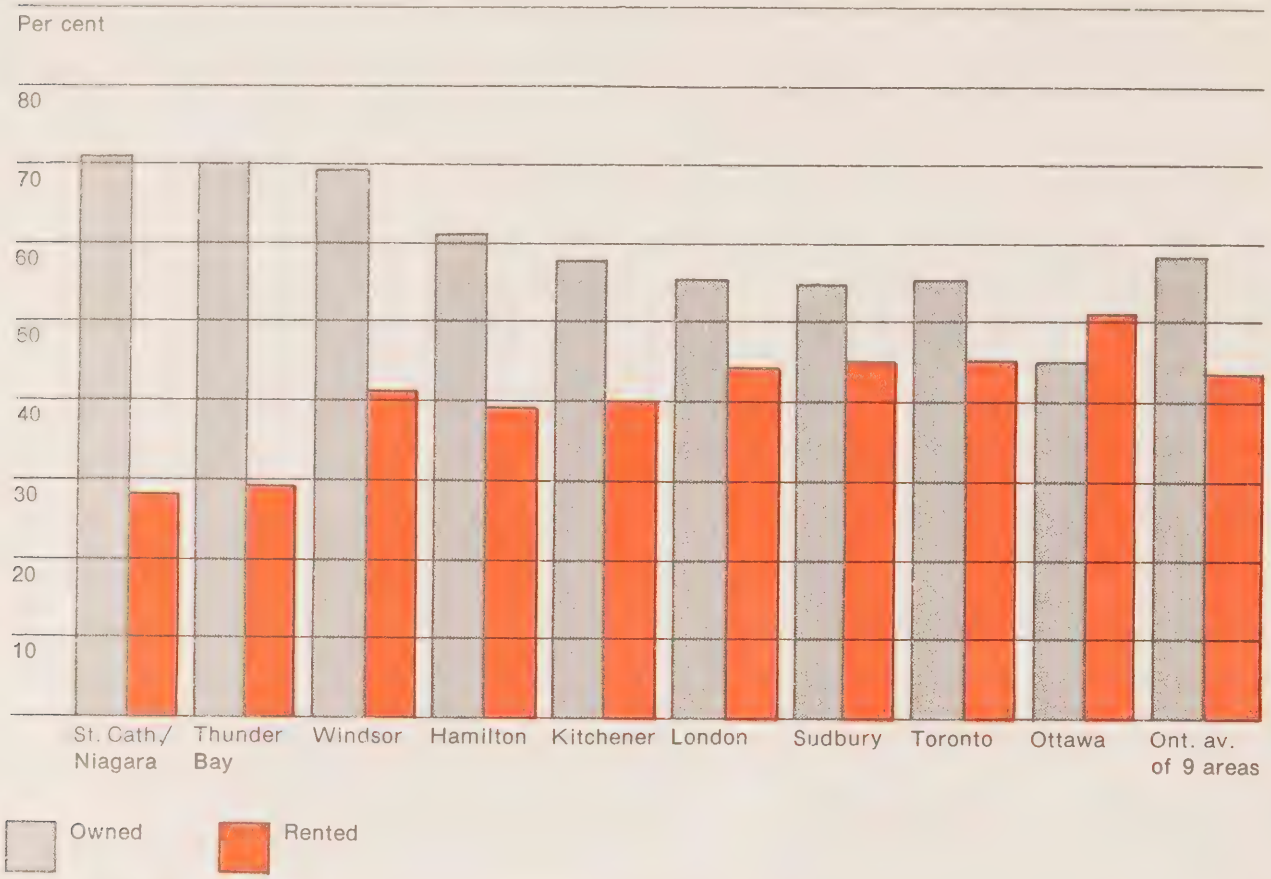
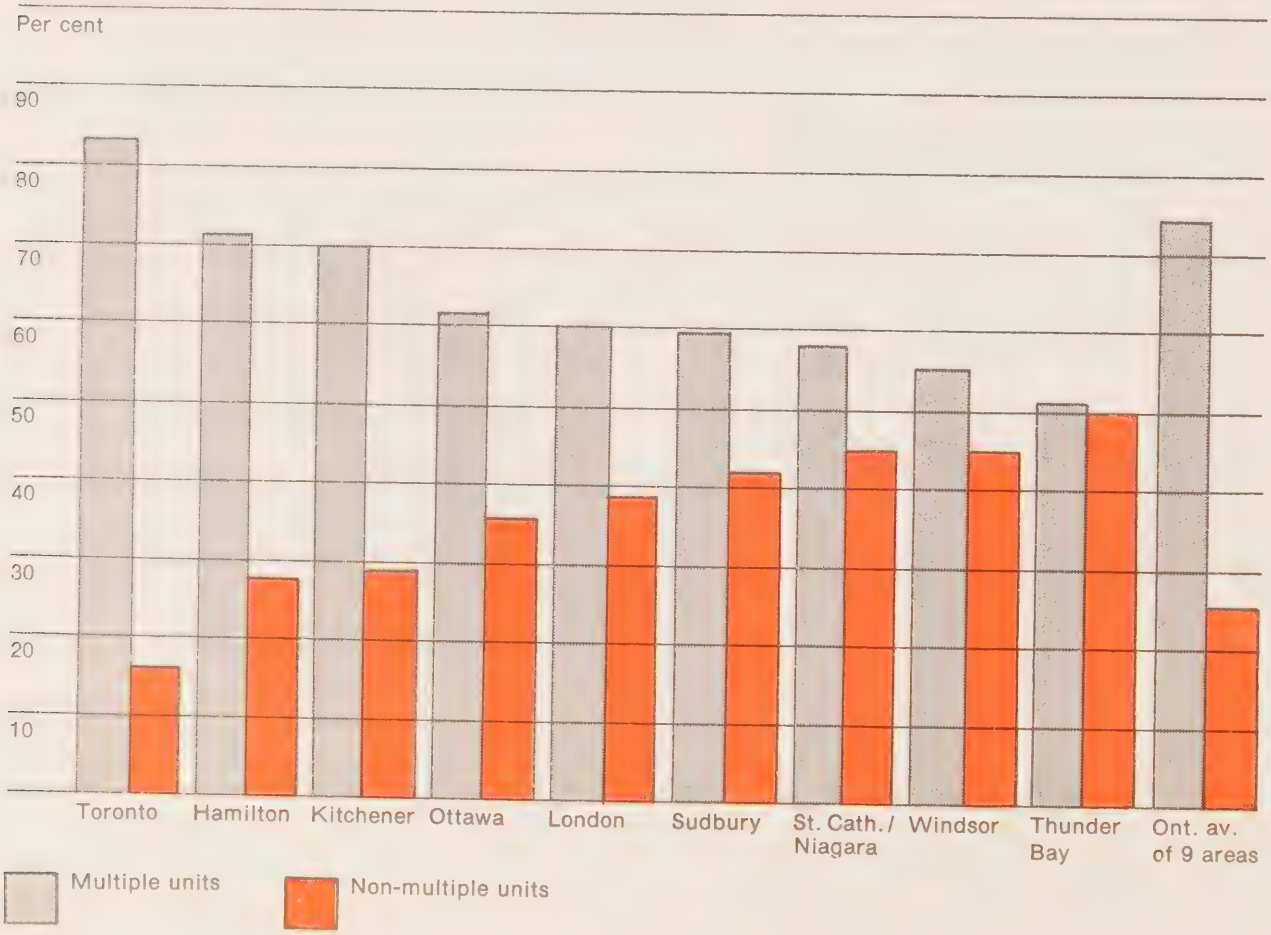


Chart 1-2
Rental housing by type 1974

Source: CMHC 1974 survey of housing units



The structure of the rental market

A brief overview of the rental market structure will assist in understanding the nature and dimensions of the rental problems.

It is estimated that there are over 1,000,000 rental households in Ontario, constituting about 36 percent of all households. Tenants are concentrated in urban areas. The 1971 Census showed that 40.7 percent of urban households were rented, while only 18.2 percent of rural households were rented. As Chart 1-1 shows, the proportion of rental households varies widely from urban area to urban area, with the proportion of tenants in the nine most urbanized areas in Ontario ranging from 28.5 percent in St. Catharines to 53.3 percent in Ottawa. The average for these areas is 43.1 percent.

A significant number of rental households are in what is normally thought to be ownership types of housing. The 1971 Census revealed that almost 12 percent of all single-detached and 47.5 percent of single-attached (including both semi-detached and row) were rental. Some 34 percent of all rental housing was in non-multiple unit buildings.

The magnitude of non-multiple unit rental buildings may surprise some, especially those who are most familiar with the Toronto market. In 1974, only 15.2 percent of all Toronto rental housing was in non-multiple units. In contrast, Windsor and Thunder Bay had 42.8 and 49.2 percent respectively of their rental stock in non-multiple units. (See Chart 1-2)

Ownership data is not available to indicate the proportion of rental housing owned by landlords with small holdings. However, given that over 40 percent of the rental housing stock in nine Ontario cities (included in a 1974 Survey of Housing Units) were in buildings with fewer than 20 units, it is clear that a substantial part of the rental stock is probably held by such landlords.

Tenant profiles based on this 1974 Survey of Housing Units show distinctive social and economic characteristics for renters.

It was found that those of low incomes are much more likely to rent than are those with higher incomes. In 1974, in the nine Ontario urban areas surveyed, 61.1 percent of those with incomes under $10,000 were tenants, compared with 40.7 percent of those with incomes from $10,000 to $19,999 and 21.0 percent of those with incomes of $20,000 and over.

Another important factor is the stage in life of the head of the household unit. As Table 1-1 indicates, a high probability of renting is found among those who are: (1) young; (2) unmarried; and (3) without children at home.

Not surprisingly, these two factors interact. For example, for the same nine cities, for those married two-parent families with children: 47 percent of those who earn less than $10,000 rent; 28 percent of those earning between $10,000 and $19,000 rent; and only 10.7 percent of those earning over $20,000 rent.

As Chart 1-3 indicates, tenants are more likely to have affordability problems than owners. In 1974, in the nine urban areas surveyed, only 15.8 percent of all owners paid 25 percent or more of their household income on housing expenditures, compared with 29.7 percent of all tenants. Further, only 6.3 percent of owners, but 14.4 percent of renters, paid 35 percent or more of their income on shelter. Another possible indicator of financial difficulty which emerges from Census data is that while there was a 31.4 percent decline from 1961 to 1971 in the number of owners who had lodgers, the number of renters with lodgers increased some 28 percent to 51,285.

Income problems are experienced by landlords as well as by tenants. The 1974 Survey of Housing Units revealed that there were some 38,000 rental building owners who lived in the buildings they owned. Of these, about 35 percent had incomes less than $10,000 a year, and a little over 20 percent had incomes $20,000 and over. The average income was slightly under $14,000. It is also interesting to note that some 15 percent of these owners were 65 years of age or over.

Table 1-1
Percent of each head of household life cycle group who are renters
9 urban areas — Ontario 1974

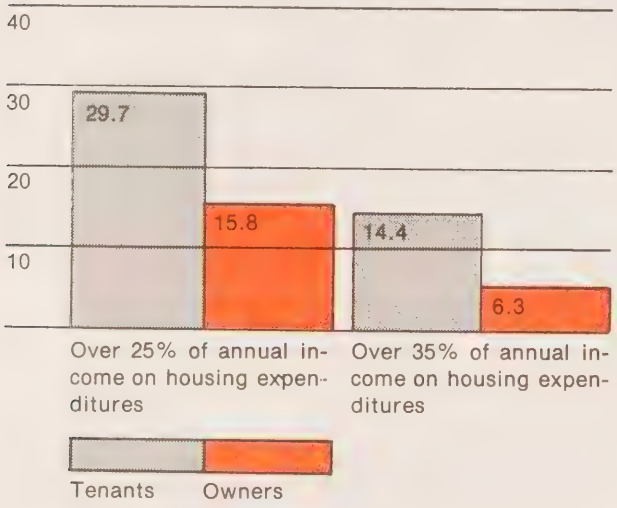
	Head of household			
	Age group			
Marital status	*14-34*	*35-39*	*60+*	*All age groups*
Unmarried	93.6	66.0	55.1	72.2
Married — (0 children)	69.3	25.3	26.2	37.0
Married — (2 parents with children)	43.9	16.1	20.4	25.7
Single parents	87.3	62.1	50.3	73.1
All marital status (excluding other)	66.3	27.8	38.6	42.7

Source: C.M.H.C. 1974 Survey of Housing Units

Rental housing quality, at least in urban areas, is quite high. Existing quality problems are concentrated in rural areas. As Chart 1-4 indicates, there has been a substantial downward trend over time in the incidence of the inadequacies that are measured. In 1971, only 4.8 percent of all urban rental housing stock was without installed bath or shower for exclusive use of the household, compared with 22.6 percent for rural rental housing. In another measure, by 1971 a negligible 0.5 percent of urban rental households reported no running water. In contrast, 12.2 percent of rural rental households lacked this essential facility.

Chart 1-3
Affordability by tenure*
1974 average of 9 major urban areas

Per cent of total owners and tenants



*Adjusted for cases related to partial year incomes by excluding those under $1,500 annual income or housing expenditure-income ratio 1.0 or more.

Source: CMHC 1974 survey of housing units

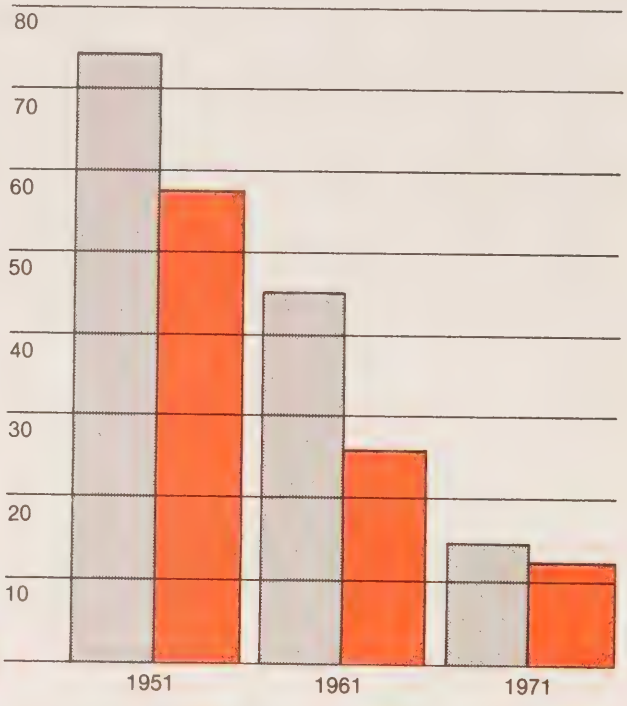
The 1971 Census also indicates the extent of crowding. If "crowded" is defined as a household with more than one person per room, 7.5 percent of all tenants are crowded compared with 6.3 percent of all owners. Chart 1-5 shows the historical trend towards less crowded housing.

From this review of the structure of the rental housing sector, several facts emerge. The rental housing sector is large; there are a great number of landlords with small holdings and tenants, by and large, live in adequate housing.

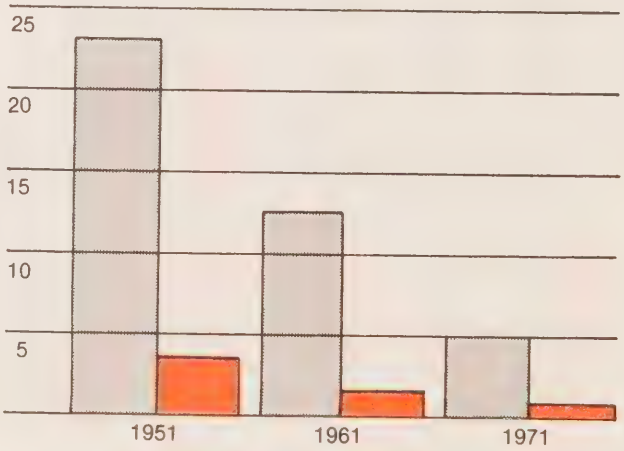
The only disturbing feature of the review is that a fairly large minority of renters faced financial difficulty in 1974. This, however, should not be overstated – for 70 percent of all rental households paid less than 25 percent of their income on shelter, and 80 percent paid 30 percent or less.

Chart 1-4
Housing quality of urban and rural rental housing stock
1951 - 1971

Per cent of rental stock—**Rural**

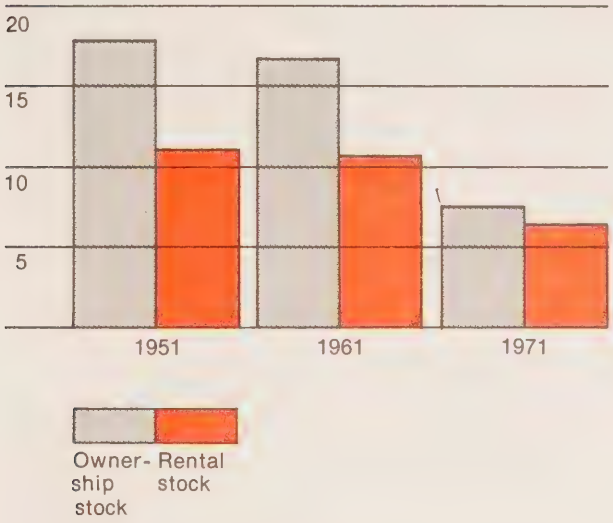


Per cent of rental stock—**Urban**



Source: Census data 1951, 1961, 1971

Chart 1-5
Dwelling units with more than one person per room
By type of tenure 1951 - 1971



Source: Census data 1951, 1961, 1971

Market conditions prior to Rent Review

In the period before the establishment of the Rent Review Program, a number of major forces were at work in shaping the rental housing situation. As indicated in the introduction, the private housing sector constituted by far the largest part of the rental market. For this reason, a special focus on the performance of this market is in order.

Of key importance to the understanding of the rental market is the financial viability of its projects. If an adequate financial return is not forthcoming, rental housing will not be built. It is necessary, therefore, to study the factors of importance in determining the financial viability of projects.

Achieving financial viability by means of rent increases, however, obviously can exacerbate the housing affordability problems of low income tenants. Thus, there is a potential for sharp conflict between these two considerations. It was the development of such a conflict that led to the creation of the Rent Review Program.

In analyzing the financial viability of investments in the rental sector it is important to consider:

- the factors affecting the expected revenues over time from rents and capital gains;
- the experience with cost increases over time — both capital and operating;
- the pattern of cash flow over time, including taxation considerations and the risks inherent in rental investment.

The impact of these considerations on the production of rental housing and the resulting position of tenants will then be noted.

Revenues from rents and capital gains

Rent revenues in a free market are determined by the demand for, and the supply of, rental accommodation.

One factor affecting the strong demand for rental accommodation that developed in the early 1970's was the increase in the number of non-family households, a group that are largely renters. For the period of 1971-75, the Ministry of Treasury, Economics and Intergovernmental Affairs has estimated that such households increased by some six percent a year. Factors causing this include both the after effects of the post-war baby boom and the increasing number of elderly maintaining a separate household.

A second factor affecting demand was migration to the province. As Table 1-2 indicates, the numbers involved were substantial, and were mainly due to immigration from abroad.

A third factor behind the demand for rental accommodation was the increase in ownership housing prices relative to incomes. From 1972 to 1974, resale prices of houses rose some 58.9 percent, while personal income per capita increased by only 28.5 percent (see Chart 1-6). While this was the result of a surge in demand for ownership accommodation, the end result worked to exclude a number of households from ownership and thus kept them in rental accommodation.

The impact of increased demand and falling vacancy rates on rents appears to have been quite sluggish in the early 1970's. This may have been the result of a tendency of many landlords, especially of small buildings, to maintain rents at low levels for any one of several reasons: a desire to retain existing tenants, the existence of multi-year leases; a concern for low-income tenants; or a limited interest in purely economic motivations. The existence of such low increases can be seen from a rent survey conducted for the Ministry of Housing which found that in the eight cities surveyed from 21 to 48 percent of units with the same tenant experienced no rent increase over a twelve-month period. Given this incidence of low or no increases, other landlords may also be restrained from increasing rents because of tenant resistance to rents substantially higher than those elsewhere in the community. This further adds to the sluggishness of adjustment of rent levels.

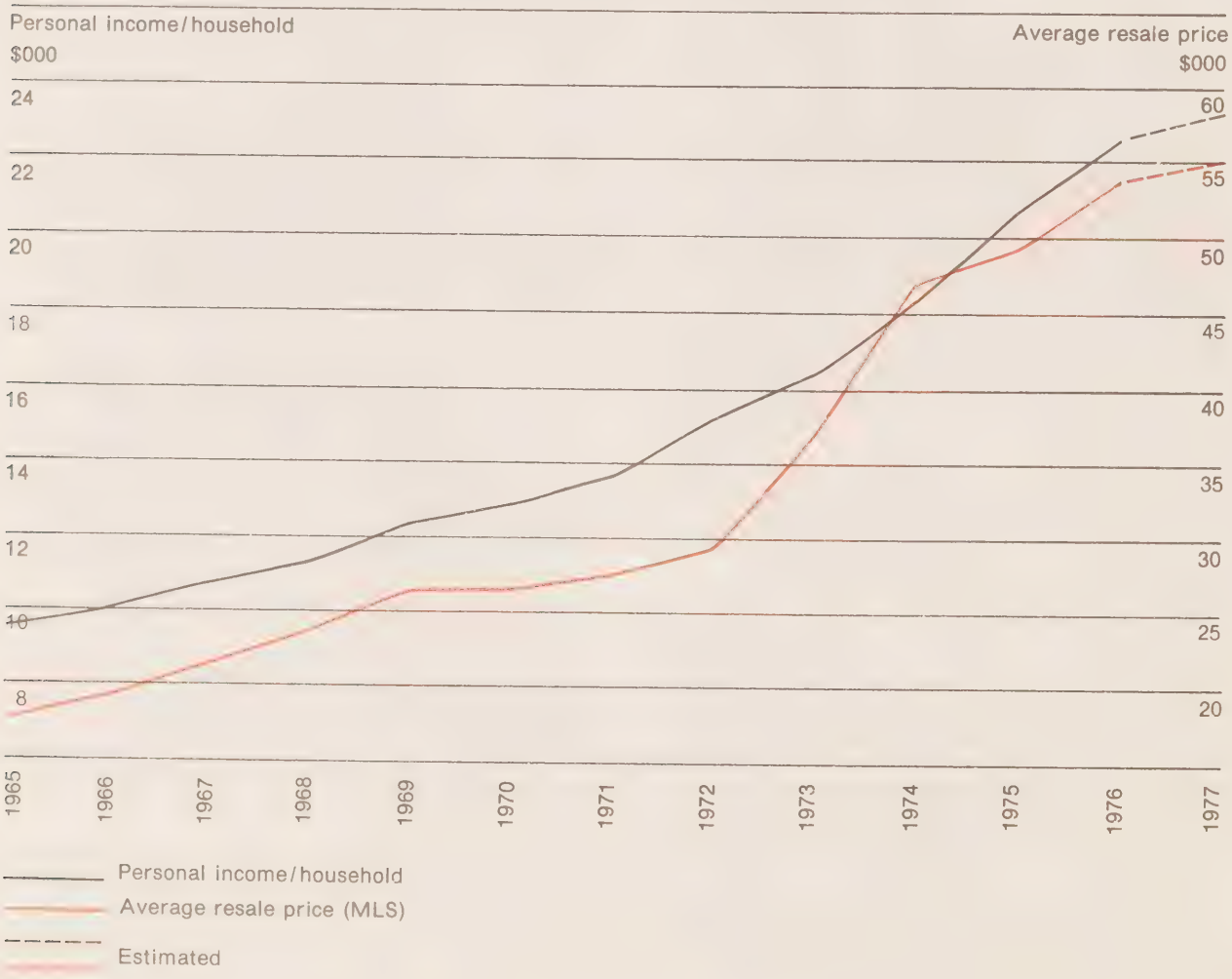
On the supply side, adjustment to an increase in demand is restricted both by the fact that new building can be only a small proportion of the total rental stock and because of the fact that multiple unit buildings take a year and a half to build and, perhaps three to five years to plan and take through the approval process.

Table 1-2
Net migration: Ontario

Year ending June 1	*Net external migration*	*Net inter-provincial migration*	*Net migration*
1972	+30,600	+10,649	+41,249
1973	+35,200	-2,339	+32,861
1974	+81,200	-7,700	+73,500
1975	+86,100	-33,782	+52,318
1976	+59,565	-25,341	+34,224
1977	+50,073	-4,002	+46,071

Source: Estimates by the Social & Economic Unit, Central Statistical Services, Ministry of Treasury, Economics and Intergovernmental Affairs.

Chart 1-6
Personal income/household and average resale prices [MLS] in Ontario 1965-1977



Personal income/household
Average resale price (MLS)
Estimated

Sources: Personal income/household—CANSIM data series
Average resale prices (MLS)—Canadian Real Estate Association

The supply of rental accommodation in any year will be largely determined by the existing stock. Only five percent or less of the supply will be new accommodation. Given the large supply of existing accommodation, new rental housing must be rented at amounts that are competitive. While new housing can be rented at somewhat more than the average for existing stock given qualitative superiority, limits exist to such a differential. In practice, new rental housing must be competitive with higher cost existing units — that is, units at the top one-fifth of the distribution of rents.

Also the length of time required to bring new rental buildings on the market lengthened considerably in the 1970s. The causes for the longer delays are complex, but in large part they reflected the strains of urban development and an increased concern by citizens for the quality of their urban environment.

Institutional changes that further inhibited supply response were, of course, devised for problems other than the provision of rental housing. The Federal Government discontinued, from January 1, 1972 to November 18, 1974, the tax write off of residential rental losses against other income largely in order to close off what was regarded as a tax loophole that resulted in some individuals deferring a considerable portion of their taxes. The unintended result was a dramatic fall in construction for landlords owing a small number of units.

The Federal Government brought in the Foreign Investment Review Act in response to nationalistic concern about foreign ownership of Canadian business. This Act also discouraged investment.

Ontario brought in the Land Speculation Tax in April of 1974 to break the rapid rise in land prices as well as changes to the Land Transfer Tax as it applied to foreign investors. Both of these measures served to further discourage foreign residential real estate investment.

Finally, municipalities developed a resistance to high density development in response to the quality of life concerns of their citizens and to municipal financial considerations.

While these institutional changes tended to work against additional residential rental development, it should not be concluded that they were necessarily ill-advised. As indicated, they were intended for other purposes, the beneficial effects of which might have been judged to outweigh the negative result of the rental sector.

The combination of delays in rent increases, increasing demand and lagging supply can produce a substantial imbalance in rental markets in a period of rapid cost increases. Such an imbalance takes a considerable time to eliminate.

To this point, this discussion of revenues has omitted consideration of capital gains. It is often believed that landlords do not need net revenues from a building's operation to make a return on investment — that capital gains on sale will provide the necessary financial reward. The fallacy in this view can be seen by posing the question "How much should a buyer of a building be willing to pay if rent revenues were expected to equal costs in every future period?" The answer is that the rational investor would not pay anything for such a building. While it is true that buildings will often sell at a profit when current cash flow is zero, this is true only where future rent increases are expected to be in excess of cost increases so that the investor is paying, in effect, for the opportunity of making future profits. Cases of prospective conversions to other uses are, of course, exceptions to this.

In the past, capital gains made as a result of the anticipation of higher levels of profits, have been substantial. Market value per unit of rental accommodation rose by 9.4 percent a year from 1967 to mid-1974 in the Metropolitan Toronto area. It follows that those holding rental units over this period have made substantial capital gains.

It would be wrong to project capital gains of this magnitude into the future. It can be argued that the adjustment to reflect shifts in both demographic and inflationary conditions has now been completed.

Cost factors affecting the supply of rental accommodation

It has been indicated that a period of rapid cost increases would result in an imbalance between revenues and costs that would take some time to correct. In fact, such a period of rapid cost increase has occurred.

Capital costs have increased both because of the increase in the market value of units, already mentioned, and because of substantial increases in rates of interest. Increases in interest rates have affected existing buildings, as well as new ones, for several reasons. Many buildings have mortgages that must be renegotiated every five years. Others are renegotiated on sale. Higher monthly payments also result when the size of a loan outstanding is increased by an existing or new owner.

Increases in the market value of units are also reflected in the rise in the cost components of new buildings.

Land cost increases are not readily available, but indications are that in some urban areas the cost of the land component increased by approximately 150 percent from 1971 to 1976. Costs of constructing buildings also rose substantially with wages of construction workers going up by 46.2 percent from 1971 to 1975 and with residential building materials rising 38.8 percent in the same period.

Interest rates in the early 1970s reached levels not experienced before. From a range of 8 to 10½ percent in the late 1960s rates rose to over 12 percent at times in the 1970s. The effect of a 3 percentage point rise in interest rates from 9 to 12 percent meant a 24.6 percent rise in monthly payments on a 25 year amortization term mortgage. This escalation of impact is largely due to the constant payment stream feature of mortgages

which requires the same dollar payment in each period. Given the usual pattern of rent revenues rising over time by more than operating costs, it might be more suitable to have mortgage payments start off at a lower level of payment and gradually increase over time. This pattern would have avoided much of the large jump in the financing costs associated with both new buildings and older buildings being refinanced. Such a feature is incorporated into the Assisted Rental Program/ Ontario Rental Construction Grant subsidy and could also be incorporated into unsubsidized mortgages. Such mortgages were not available during this time period.

Interest rate increases interact in a compound manner with construction cost increases. That is, not only are there more dollars to finance, but each dollar is financed at greater cost. Thus, a 50 percent increase in the combined cost of land and building, combined with a 25 percent increase in debt payments per dollar loaned, results in an increase of 87.5 percent in total monthly payments.

During the early 1970s, the costs of operating buildings also increased by a large amount. Comprehensive data are not available for an unbiased sample of rental buildings in Ontario, but a rough indication of the magnitude of such increases may be gained from a look at the nationwide increase in various components of home ownership expense in the Consumer Price Index. From 1971 to 1975, fuel and utilities rose by 46.6 percent, reflecting the substantial world-wide increases in energy prices and high interest rates as they affected this capital-intensive sector of the economy. Owner repairs rose by 46.4 percent, reflecting increases in cost for both labour and materials. Dwelling insurance, a minor cost component, rose by 112.5 percent. From papers published in connection with the 1977 Ontario Budget, it can be seen that average property taxes per household did not increase significantly until 1975 when they rose 14.6 percent over the 1974 level. Significant increases in labour costs have also occurred. Janitors' wages in Toronto, for example, rose from an average wage of $3.09 per hour in 1974 to $3.48 in 1975, an increase of 12.6 percent (Canada Department of Labour Survey of Wage Rates, Salaries and Hours of Labour). In the service industry in general, the Ontario-wide increase in wages was 8.5 percent in 1974 and 11.7 percent in 1975.

A noteworthy feature of these costs, both capital and operating, is the extent to which they go beyond the control of the housing industry. Cost pressures have by no means been unique to rental housing; accordingly, it follows that definitive limits exist on the ability of housing policy to cope with such changes.

Cash flow, taxation and risk

The pattern of cash flow over time will first be considered under "normal" conditions, that is, prior to the development of the imbalance between revenues and costs. The pattern will be described both excluding and including tax considerations.

The typical pattern of pre-tax investment return on rental buildings was one of low, or negative cash flow in the initial years, followed by an increasing margin of return over time. The low or negative returns of the first few years resulted from the necessity of competing in terms of rent levels with existing buildings despite having higher level of costs, especially of capital costs. Given the low returns of the initial years, rental investments could be attractive only if rents could be raised over time by more than increases in costs. This, in general, proved to be the case under normal conditions, making rental investment a financially viable proposition.

The foregoing analysis has omitted mention of certain tax advantages which play a role in rental investment. In particular, until the end of 1978, all investors in multiple-unit rental buildings can offset tax losses, due in part to accelerated depreciation, against other income for tax purposes. Even after the end of 1978, such write-offs would be allowed for a company whose principal business is the leasing, development, or sale of real estate. The effect of this is to relieve to some extent the cash flow drain during the initial years of operation, although increasing it somewhat thereafter. The net result of these provisions is to lower the rent that must be charged in the initial years, although it requires increasing rents more rapidly thereafter as the impact of tax losses on investor cash flow is reduced and then reversed in later years.

The implications of this pattern of return over time are considerable. For one thing, it implies a necessity for rent revenues to increase by more than costs over time. If this does not happen, the return on owning rental buildings would not prove to be large enough to justify the initial investment. Thus, in a "normal" market, rent increases are generally greater than cost increases.

A second implication is that the return on a rental building has a unique time pattern compared with that of a bond. Whereas a bond will yield a fixed return in each year, the building will normally show a rising cash flow over time, apart from tax considerations. Including tax considerations, the resulting pattern of yield over time will be the combination of the rising cash flow from the building and the decreasing, and then negative cash flow from the tax considerations.

Another element of importance in determining the rate of return on buildings is the risk factor. The owner of the building bears a greater risk than the mortgage lender because the lender has first priority of claim in the event that the building fails financially. For this reason, a rental building owner would have to expect a higher rate of return than a lender to compensate for the additional risk.

The cost-revenue imbalance

As noted above, costs in recent years have been increasing rapidly. Indeed, the increase in costs has been such that new buildings can only be brought on the market with combined operating and debt service costs well in excess of the market level of rents. This phenomenon can be termed the cost-revenue imbalance.

Table 1-3
Financial analysis of new apartment rents for two-bedroom units in Metro Toronto
Completion: mid 1975
Start: end of 1973

Assumptions

Land cost per unit	$ 7,000	Equity	$ 2,500
Building cost per unit	$18,000	Mortgage	$22,500
	$25,000		$25,000
Mortgage terms	25 years at 12¼%		
Operating cost	$110/month		

Investor's Tax Bracket 50%

Annual Costs	*Cash flow expenses*	*Expenses for taxation*
Operating expenses	$ 1,320	$ 1,320
Mortgage principal	158	N.A.
Mortgage interest	2,675	2,675
Capital cost allowance — building	N.A.	900
Capital cost allowance — fixtures	N.A.	150
	$ 4,153	$ 5,045

Monthly cash flow breakeven rent for building = $\frac{4,153}{12} = \$346$

Monthly breakeven rent for investor, including value of tax loss = $\frac{4,153 - (5,045 - 4,153)}{12} = \$272$

Ten percent cash flow on equity to investor after taxation = $272 + \frac{.10\ (2,500)/12}{.5} = \$313$

N.A. — Not applicable

By 1975, rising costs combined with lower rates of increase in revenues to produce a cost-revenue imbalance for the production of new rental housing. Table 1-3 is based on Ministry of Housing estimates for mid-1975. The break-even rent for the building in the first year of full occupancy was $346 per month. This amount was well in excess of the $250 a month rent which represented the lower boundary of the top one-fifth of the rents on two-bedroom units indicated in the July 1975 rent survey conducted for the Ministry of Housing. In that new buildings must be competitive with existing buildings that have the highest one-fifth of rents, it is apparent that a substantial negative cash flow would result.

This general result holds even after taking into account the value of tax losses to an investor. Table 1-3 also indicates that the break even point, after taking tax losses into account, was $272 a month. Furthermore, it is unlikely that an investor would undertake any rental investment with its inherent risks, if the total return, including taxation considerations, was non-existent in the initial years. This is especially so given the fact that the cash flow from taxes arises from only a deferral, not a cancellation of taxes.

A more realistic possibility might be to allow the investor a ten percent return after taxes in the first year of full occupancy. As Table 1-3 shows, the rent level required for investment under these circumstances would rise to $313 a month. While lower than the $346 a month break-even rent on the building's cash flow, this amount is still well in excess of the $250 minimum rent for the most expensive one-fifth of existing buildings.

The implications of the cost revenue imbalance for the rental market are profound. If new buildings can only generate revenues that fall far short of costs in the initial years of full operation, an intolerable strain is placed on the financial resources of the investor. Under such conditions, new rental building will not occur.

This lag of revenues behind costs produced a significant decline in the volume of private rental unit production other than that assisted by government programs. According to Ministry of Housing estimates, private unassisted rental production fell from 18,250 units in 1974 to 4,700 units in 1975 (see Table 1-4).

An additional factor in the rental decline was the opportunity available to developers to switch from rental to condominium production. The Ministry of Housing estimates that condominium production in Ontario increased by 19.5 percent in 1974 to over 18,000 units with a further increase in 1975 of some 13.5 percent. This shift to condominiums is illustrated in Table 1-5.

In the face of the decline in rental activity, both federal and provincial governments increased their sponsorship of rental activity. The number of publicly assisted rental

Table 1-4
Multiple rental starts activity
public and private
1973 – 1977

	Public rental starts*		Private rental starts		Total rental starts	
Actuals	Units	Percent of total rental	Units	Percent of total rental	Units	Percent of total housing starts
1973	10,500	23.8	33,600	76.2	44,100	39.9
1974	8,500	31.8	18,250	68.2	26,750	31.3
1975	11,700	71.3	4,700	28.7	16,400	20.5
1976	12,200	76.7	3,700	23.3	15,900	18.8
1977**	15,330	82.9	3,170	17.1	18,500	23.1

Source: Estimates and forecast by Ministry of Housing based on C.M.H.C. monthly housing statistics and data provided by the Administration Branch, Ontario Mortgage Corporation.

Table 1-5
Multiple unit starts activity
rental and condominium
1973 – 1977

	Multiple rental starts		Condominium starts		Total multiple unit starts*	
Actuals	Units	Percent change	Units	Percent change	Units	Percent change
1973	44,100		15,735		59,835	
1974	26,750	-39.3	18,809	+19.5	45,559	-23.9
1975	16,400	-38.7	21,356	+13.5	37,756	-17.1
1976	15,900	- 3.1	28,028	+31.2	43,928	+16.3
1977**	18,500	+16.4	22,000	- 21.5	40,500	- 7.8

Source: Estimates and forecast by Ministry of Housing, based on C.M.H.C. monthly housing statistics.

**Excludes any rental starts financed under the C.M.H.C. Approved Lender Program (Section 6), with the exception of the Ontario Government Accelerated Family Rental Program introduced in January, 1975.*

***Forecast estimate.*

starts under various programs increased from 8,500 units in 1974 to 11,700 units in 1975. Even higher levels of starts may have been attained but for municipal resistance to rental development in general, and Ontario Housing Corporation housing in particular.

The rental environment in 1975

Given the strong level of demand and the slow down in production, vacancy rates across the province were at low levels in 1975. The pattern of rates is indicated in Table 1-6. In Metropolitan Toronto, for example, the vacancy rate had fallen from 2.9 percent in June of 1972 to 1.5 percent in October 1975. Vacancy rates would have fallen further had it not been for the shift of households from rental to ownership units.

With tight housing markets, as indicated by low vacancy rates and rapidly increasing costs, rent levels were subject to considerable upward pressure. In Metropolitan Toronto, the rent survey conducted for the Ministry of Housing indicated an 11.7 percent increase for 1975 over 1974.

Accentuating the higher-than-normal rate of average rent increase was the concern over well-publicized cases of much higher increases. The same rent survey indicated that 3.4 percent of tenants in Metropolitan Toronto experienced increases of over 30 percent. Not all of these increases could be justly termed unconscionable – a number of cases involved rents that had not been increased in many years or instances where significant increases in costs, especially of financing, had occurred. Nevertheless, even a one percent incidence of such increases implies over 4,000 cases in Metropolitan Toronto, or about 10,000 for the province as a whole. This being the case, there existed enough individual hardship to spread a good deal of unease throughout the rental community.

Especially vulnerable, of course, were tenants with low incomes. The 1975 rent survey gave evidence that those with low incomes were receiving a somewhat larger share of greater than average rent increases. Whereas those earning under $10,000 a year constituted 29 percent of the surveyed population, they accounted for only 24 percent of those with increases 10 percent and under, but 35 percent of those with increases of over 15 percent.

Public attitudes toward inflation in general were also exerting pressure on governments for a decisive response. The Consumer Price Index had increased by 10.9 percent in 1974 and was in the process of increasing by 10.8 percent in 1975. Furthermore, expectations were forming that the same rate of increase, or worse, was yet to come.

Table 1-6
Vacancy rates[1] in apartment structures of 6 units and over in census metropolitan areas in Ontario (percent)

Census metropolitan areas	1972		1973		1974		1975	
	June	Dec.	June	Dec.	June	Dec.	Apr.	Oct.[2]
Hamilton	2.3	1.6	2.1	2.2	2.1	1.4	1.8	2.9
Kitchener	4.7	1.6	5.1	3.6	7.1	2.4	2.8	2.4
London	7.2	4.2	8.4	3.6	5.9	2.0	2.8	2.2
Ottawa-Hull	2.1	1.5	2.0	1.9	3.5	2.5	2.1	2.0
St. Catharines-Niagara	2.8	3.3	3.3	4.4	5.2	3.5	3.1	2.6
Sudbury	4.9	5.3	9.8	10.7	9.2	4.4	2.5	1.0
Thunder Bay	0.6	0.8	1.5	0.9	1.7	0.4	0.6	0.4
Toronto	2.9	2.3	1.8	1.4	0.9	0.9	1.0	1.5
Windsor	1.4	2.6	2.7	1.9	2.9	2.4	3.4	3.5

Source: C.M.H.C. vacancy rate survey

[1] *Definition is based on all apartment structures of six units and over completed at least six months prior to the date of the survey.*

[2] *C.M.H.C. survey dates changed to April and October in 1975.*

In the context of this environment of public attitudes, both federal and provincial governments acted to introduce controls on inflation. On October 14, 1975, the Prime Minister of Canada announced the introduction of the Anti-Inflation Program to govern the rate of increase in a wide range of wages and prices. On November 6, 1975, in response to public demand, the Ontario Government introduced legislation establishing the Ontario Rent Review Program in support of the federally initiated Anti-Inflation Program. Both measures were enacted into law shortly thereafter.

The provisions of the Rent Review Program

While it is not the purpose of this paper to review in detail the operations of the Rent Review Program, some of the features of the program do have a significant impact on the operation of the rental housing sector. Accordingly, some comments about these provisions are appropriate.

During the first 27 months of the program, rent increases of up to 8 percent were permitted upon mutual agreement of landlord and tenant. For the period from October 27, 1977 until the end of 1978, the maximum rate for such agreements is set at 6 percent commensurate with the rate of increase for wages under the federal Anti-Inflation Program. Increases in rents over this maximum have to be referred to a Rent Review Officer for approval, even where landlord and tenant agree to such an increase.

In cases referred to a Rent Review Officer, there are four criteria set out in the legislation as a basis for a decision:

- rent increases that have occurred since January 1, 1974;
- the discontinuance of a service, privilege, accommodation or thing, resulting in a reduction of tenants' use and enjoyment of the unit;
- the increases in operating costs and capital expenses that the landlord has either experienced or reasonably anticipates he will experience; and
- whether or not the increase in rent sought by the landlord is necessary in order to prevent the landlord from sustaining a financial loss in the operation of the building.

Some brief statement of the rationale of these provisions is in order.

The retroactive features in the legislation were aimed at rectifying situations of abnormal increases in the period immediately prior to rent review. In this period some landlords had increased rents drastically in order to have a high rent level before Rent Review imposed restraints. Other landlords had increased rents little or not at all. The legislation thus provided for a levelling out of such situations in subsequent reviews.

The rules covering withdrawals of services to tenants were put in to minimize the occurrence of such withdrawals on the part of landlords. A landlord whose rent levels were controlled could otherwise increase the profit margin by reducing expenditures on services provided to tenants. This might lead, over time, to a potentially serious deterioration in the quality of rental housing stock.

The principle that rents could be increased only to the extent that costs have risen (the cost pass-through principle), is the core of the current Rent Review Program. It implies that the dollar amount of profit of a landlord will not be allowed to increase.

An exception to the cost pass-through principle was made in the case of financial loss. It was recognized that it would be both unfair and undesirable to lock a landlord into a loss situation with no mechanism for relief. Failure to provide such relief would lead to rapid deterioration and perhaps even abandonment of existing rental stock.

Before commenting on the logical implications of such a program, it must be recognized that it was conceived as a temporary, 24-month program that was to expire on July 31, 1977. Certain provisions were put into the legislation and subsequent regulations which, while acceptable in the short run, have increasingly undesirable consequences when viewed in the perspective of longer-term legislation.

As noted, the central feature of the legislation was the cost pass-through principle. The notion that rents should be able to increase only by the same dollar amount as costs carries with it certain important implications. Such a principle violates the long-established pattern of returns in the industry whereby buildings start out in their initial years with low or negative returns and the profit margin improves over time. Also, while Rent Review did not create the cost-revenue imbalance which preceded it, it severely limits the elimination of such an imbalance in that the best a landlord who is experiencing an excess of costs over revenue can do, is to attain a break-even position. Thus, he can not earn a return on investment as he would have been able to earn on almost any other investment. Finally, for those landlords who were earning a positive return on investment, the cost pass-through rule, by freezing the absolute dollar amount they earn, results in a declining returns as inflation eats away at the fixed dollar amount of the profits allowed. This implies that the financial incentive to landlords is progressively being undermined.

The implications for the landlords' rate of return are complicated by the unavoidable uncertainties in application of the legislation. While every effort is made to approve legitimate expenses, a landlord has no way of being sure that a given expenditure, in an area where discretionary judgement of the Rent Review Officer applies, will be allowed.

Special problems may be encountered in the consideration of capital expenditures and financing. With regard to capital expenditures, uncertainty necessarily exists as to the portion of many such expenditures that will be judged improvements and hence eligible for a rate of return and those judged replacements to maintain existing services and thus not eligible for an additional return. With regard to financial payments where refinancing on sale results in a loss position, the financial loss can be passed on in rent increases only to the extent to which the loss is eliminated. Furthermore, a landlord cannot take money out of the building by financing-up (i.e., increasing the mortgage) and expect the cost of such financing-up to be passed on as a rent increase. The resultant decrease in the liquidity of the investment results in declining investment in rental housing.

The implications of Rent Review on new building are of particular importance. Successful return to a free market situation would be facilitated by a balanced situation between rental housing supply and the demand for it. This suggests that additional rental building is required.

The Rent Review legislation specifically exempts rental buildings first occupied after January 1, 1976. This does not mean, however, that these new units will be entirely unaffected by the existence of the Rent Review Program. By holding down rent increases on existing units, the program accentuates the gap between rents on older units and the break-even rents in newer structures. This will mean that tenants can be expected to exercise a preference for the older controlled units, thereby leaving the newer units with higher vacancies. This factor tends to limit the rents that can be charged by owners of new units and widens the cost-revenue imbalance. In addition there is the fear on the part of some landlords that the Rent Review Program might subsequently be extended to units constructed after the start of 1976. While the slump in rental production undoubtedly was not caused by Rent Review, the advent of the program may have served to help perpetuate a low rental housing production condition.

The implications of Rent Review for housing affordability is necessarily a concern. For the 20 to 30 percent experiencing some degree of affordability problem in 1974, the program has served, in general, to maintain but not improve their affordability position. In general, rent increases have gone up roughly in line with income increases. The Rent Review legislation is not structured to consider the relation of an individual's rent in relation to income, but rather it was tied to the cost considerations of the landlord. Nor could the legislation have been structured so as to include consideration of tenant income without grave consequences. Such a system of tying private rentals to tenant incomes would unduly punish, perhaps to insolvency, landlords who happen to rent to those on low incomes (and unduly reward those renting to high income tenants) and would lead to a strong bias on the part of landlords against renting to those suspected of low incomes — including the elderly and the disadvantaged.

Further to the affordability issue, it should be noted that the same 70 to 80 percent of tenants who do not have affordability problems have also benefited from Rent Review. While these people are undoubtedly appreciative of their financial saving, this aspect of the program involves, in effect, a transfer of income to individuals, some of whom are earning above average incomes.

The cost to the province of administering the Rent Review Program is some $7.5 million a year. However, there is, in addition, another cost related to the program; that is, an income transfer from landlords to tenants where an allowance for full costs plus return on investment does not occur. There are a large number of small landlords from whom such a transfer is made.

Thus, the current design of the Rent Review legislation is such that it should be reconsidered in the light of longer-term effects. While it has served well as an interim measure that avoided excessive increases associated with a crisis environment, it is clear that some other way must be found to deal with the longer term. It is to this theme that we will return in the second part of this paper.

Rent Review operations

The Residential Premises Rent Review Act, 1975, became law on December 18, 1975. In its first year of operation at December 31, 1976, 271,614 applications had been made, of which 94 percent were from landlords, resulting in 9,412 hearings. This first year of operation covered 17 months of regulation due to the retroactivity of the legislation.

A sample of 7,317 of these hearings, involving 131,455 rental units, indicated that the average rent increase requested by landlords in these cases was 19.66 percent. This would have established a province-wide average rent for these units of $240.75 per month. On average, however, Rent Review Officers approved rent increases of 12.56 percent, establishing a maximum province-wide average rent for these units of $224.93 per month. These aggregate numbers, however, include all types of leases and are perhaps misleading because of the effect of tenancies that are coming off multi-year leases. The corresponding statistics for rent increases from tenancies on one-year leases in 1976 (79 percent of cases) are 18.54 percent or $230.51 per month requested by landlords and 11.87 percent or $215.36 per month granted by Rent Review Officers.

For 1977 the aggregate results show that 55,908 applications have been made of which 94 percent have been originated by landlords. This has resulted in 5,145 hearings. A sample of these, representing 39,219 units indicates that landlords have been requesting 18.44 percent rent increases or an equivalent of $253.85 per month and have received an average of 12.52 percent or $241.42 per month by Rent Review Officers. When this is broken down to one-year leases only, the average rent increase requested by landlords is 18.09 percent or $249.01 per month and the average rent increase granted by Rent Review Officers is 12.17 percent or $236.85 per month.

Because the purpose of Rent Review was to restrain the rate of rent increase to justifiable costs, as a contribution to the national Anti-Inflation Program, these results indicate that this aim is being achieved. For example, in 1976, 49.8 percent of all hearings resulted in rent increases of less than 12 percent, representing 54.1 percent of all units involved. This also indicates that those landlords who requested and were able to prove the need for larger rent increases due to capital expenditures, changes in financing, or financial loss, were granted them.

Furthermore, it must be remembered that the vast majority of rental units were not brought into the Rent Review process. In 1976 approximately 75 percent of the rental units regulated by the legislation were subject to legal rent increases of 8 percent or less. In 1977 the percentage was even higher.

The decline in the number of hearings held from 9,412 in 1976 to 5,145 in 1977 has been followed by a corresponding decrease in number of Rent Review staff. Where there were 486 employees at the peak of 1976, the present staff is approximately 280.

The rental market under Rent Review

It would be wrong to attribute what has happened in rental markets since the fall of 1975 to the existence of the Rent Review legislation. It is useful, however, to review what has occurred since that date. It is clear that the distortions introduced into the rental market during the early 1970s have continued to date.

Looking at the cost side, changes have occurred in both capital and operating components.

Construction costs showed a strong increase in 1976, with residential building materials up by 8.8 percent and construction wages up by 13.4 percent. For 1977, the September index for construction materials was 6.9 percent over 1976, and the wage index rose another 9.8 percent.

Offsetting this to some extent is the decline in interest rates that has occured since late 1976. Rates have fallen from 11¾ percent in September of 1976 to about 10½ percent by October of 1977. This would imply an 8.5 percent reduction in monthly carrying cost of each dollar of debt.

Operating costs, however, have continued to increase sharply. The Consumer Price Index home ownership components for fuel and utilities rose 18.1 percent for 1976 over 1975 and by 15.2 percent for the first nine months of 1977 over the same period in 1976. For repairs, the index rose by 11.7 percent in 1976 and by 9.6 percent for the first nine months of 1977 over 1976. Dwelling insurance was up by 25.2 percent in 1976 and 22.2 percent in the first nine months of 1977. The 1977 Ontario Budget Supplementary Papers indicated a 13.7 percent increase in average residential property taxes. Janitors' wages rose by 6.9 percent in 1976, and wages and salaries in Ontario's service industry advanced by 11.9 percent in 1976 and a further 7.3 for the first seven months in 1977 over the same period the year before.

Given the high rates of cost increase and a Rent Review Program that was geared to costs, it should not be surprising that the general level of rents continued to increase. Based on a rent survey conducted for the

Table 2-1
Financial analysis of new apartment rents for two-bedroom units in Metro Toronto
Completion: end of 1978
Start: mid 1977

Assumptions			
Land cost per unit	$ 9,000	Equity	$ 3,600
Building cost per unit	$27,000	Mortgage	$32,400
	$36,000		$36,000
Mortgage terms	25 years at 10½%		
Operating cost	$150/month		

Investor's Bracket 50%

Annual costs	*Cash flow expenses*	*Expenses for taxation*
Operating expenses	$ 1,800	$ 1,800
Mortgage principal	292	N.A.
Mortgage interest	3,320	3,320
Capital cost allowance — building	N.A.	1,350
Capital cost allowance — fixtures	N.A.	200
	$ 5,412	$ 6,670

Monthly cash flow breakeven rent for building = $\frac{5,412}{12} = \$451$

Monthly breakeven rent for investor, including value of tax loss $\frac{5,412 - (6,670 - 5,412)}{12} = \$346$

Ten percent cash flow on equity to investor after taxation = $346 + \frac{.10\ (3,600)/12}{.5} = \$406$

N.A. = Not applicable

Ministry of Housing, the annual rate of rent increase for 1975 to 1976, excluding cases of no rent increase, was between 9.1 and 12.6 percent in the eight survey cities. For 1976 to 1977 the range for eight cities surveyed was between 9.2 and 11.7 percent excluding cases of no rent increase, and between 5.3 and 8.6 percent including cases of no rent increase.

Despite the rent increases recorded, the cost increases outlined above served to continue the cost-revenue imbalance. As shown on Table 2-1 an analysis by the Ministry of Housing in 1977 indicated that in Metropolitan Toronto, the rent level required to yield a ten percent cash flow on equity after taxation was $406 a month for an unsubsidized two-bedroom unit started now and coming on the market in two years. This contrasts with the $307 lower boundary to the top one-fifth of rents in Metropolitan Toronto as indicated by the 1977 rent survey.

Unsubsidized private rental starts continued at depressed levels. Indeed, in 1976 these starts fell from the estimated 4,700 of 1975 to 3,700. Publicly-assisted starts again rose in an attempt to offset the fall-off in private production, with assisted starts rising from 11,700 in 1975 to 12,200 in 1976. Thus, the public sector was involved in fully 75 percent of all rental starts. An order of magnitude estimate of the extent of this assistance to the rental housing sector in Ontario, by the three levels of government in fiscal year 1977-78, is $550 million.

Despite public efforts, production levels remained below desirable levels. The Ontario Government's Special Program Review Committee has suggested that the proportion of new building in rental production could be as low as 30 percent over the next decade given the increasing potential and desirability of home ownership and an expected continuation of rental production problems under Rent Review.

Total housing requirement projections produced for the Ministry of Housing have indicated a requirement for some 88,000 units a year for the period from 1976 to 1981. These projections result from the high level of family formations resulting from the baby boom, continuing immigration, and the increased tendency to maintain separate non-family households.

Considered together, the 88,000 unit-a-year housing requirement and the 30 percent rental target results in a 26,000 unit-a-year rental production figure. The total starts for 1976 of 15,900 units fell well below this level.

In response to this shortfall, the Federal Government introduced the Assisted Rental Program which has a deferred interest loan feature to reduce the effective rate of interest to the owner of a new building. As the program was originally designed, it did not effectively service high-cost areas such as Metropolitan Toronto. For this reason, the province entered into an agreement to add an additional grant in high-cost areas to aid the owner in meeting expenses, at reasonable rents, while earning a suitable return.

The Assisted Rental Program, together with the Provincial grant, has enjoyed a strong response from developers. In part, the strength of the building activity reflected the desire to start rental buildings before the end of 1977 in order to qualify for a tax provision which was to be discontinued at the end of that year. This provision permits off-setting tax losses on multiple unit residential buildings against other income. It has been extended to the end of 1978.

Table 2-2
Vacancy rates* in apartment structures of 6 units and over in census metropolitan areas in Ontario (percent)

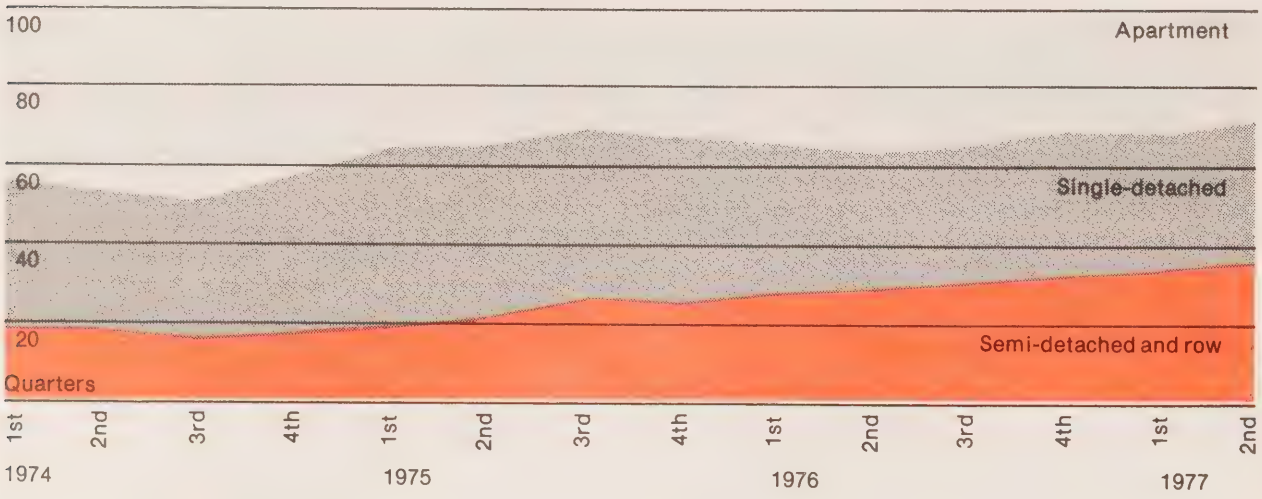
Census metropolitan areas	*1975*		*1976*		*1977*	
	Apr.	*Oct.*	*Apr.*	*Oct.*	*Apr.*	*Oct*
Hamilton	3.0	3.8	3.8	3.8	4.7	5.2
Kitchener	5.0	3.2	4.8	2.7	3.6	3.3
London	3.2	2.4	3.1	1.5	2.6	1.9
Ottawa-Hull	3.5	2.6	3.3	3.3	3.4	2.3
St. Catharines-Niagara	4.2	2.9	3.0	1.5	1.7	1.0
Sudbury	3.1	1.2	0.8	1.5	1.2	1.2
Thunder Bay	0.7	0.5	0.4	0.2	0.8	0.3
Toronto	2.4	2.2	1.7	1.5	1.2	1.0
Windsor	3.1	3.4	3.1	1.8	1.7	0.8

Source: C.M.H.C. vacancy rate survey

**The vacancy rate is based on all apartment structures of 6 units and over irrespective of the date of completion. While statistics a available for vacancies excluding units completed in the last 6 months (as in Table 1-6), the data including such units are a better indication of the total units available in the rental market.*

Chart 2-1
Housing starts by type, 1974 - 1977

Per cent of Total*



*Four quarter moving totals used

Source: CMHC monthly housing statistics

It should be noted that, while the Assisted Rental Program/Ontario Rental Construction Grant combination has been successful in generating rental starts, this has been accomplished with large per unit subsidies. It is estimated that the potential subsidies, including tax loss provisions, may be as high as a capital value per unit of $7,700.

While Assisted Rental Program activity will bring buildings on stream in later years, it does not provide immediate relief to rental markets. Despite the lack of rental building, however, vacancy rates have experienced an easing in 1977 in most areas. (See Table 2-2). One exception to this pattern is Metropolitan Toronto where the rate declined from 2.2 percent in October, 1975 to 1.0 percent in October of 1977.

A factor which may explain some part of this stabilization in vacancy rates is the large output of ownership accommodation. As Chart 2-1 indicates, output of semi-detached and row housing showed a significant resurgence during 1975 while apartment buildings continued to fall to low levels of production. The pressure on rental markets has thus been eased to the extent that people have been able to enter lower-cost forms of ownership.

Insofar as the existing rental stock is concerned, it is important to note what has happened to the quality of services and maintenance. The 1976 and 1977 rent surveys indicated that less than 15 percent of the renters in the survey felt that the quality of services and maintenance had deteriorated in the previous year.

As discussed in the foregoing, Rent Review was conceived as a short term program to address the problem of inflationary rent increases. Once the program was operational, however, it soon became evident that tenants and landlords found it difficult to restrict their discussion at Rent Review hearings to matters of rents.

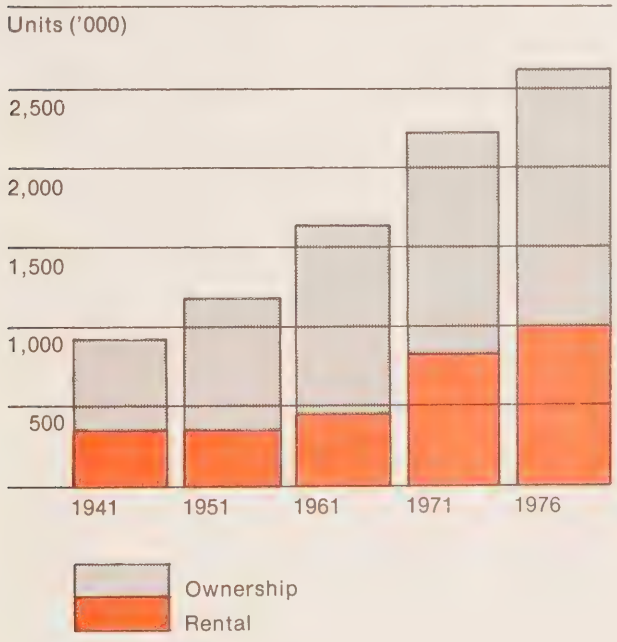
Rent Review Officers have found that tenants cannot adequately discuss the merits of a rent increase without also discussing the shortfalls perceived in their accommodation, whether it be a maintenance or repair item, a landlord's breach of an obligation in their tenancy agreement or a complaint against another tenant who frequently disturbs the quiet enjoyment of their home. Landlords raise such matters as the problems they encounter in evicting an undesirable tenant, the resulting high losses in rents and the losses they must sustain because of property damage to their premises.

While some of these matters may have a bearing on the decision of the Rent Review Officer in setting the rent, the resolution of the issue must be either accomplished through mutual agreement between the landlord and tenant involved or through recourse to the courts to protect a right established under The Landlord and Tenant Act. The next chapter will trace the important developments of this area of the law in Ontario and other Canadian jurisdictions.

Prior to 1970, under the Ontario Landlord and Tenant Act, no distinction was drawn between the law applicable to industrial, commercial and agricultural tenancies. In the 1960s, it became clear that the law was not functioning efficiently in resolving problems between landlords of residential premises and their tenants.

The increasing awareness of the legal position of landlords and tenants occurred at a time of large growth in the number of tenants, both in terms of their absolute numbers and as a proportion of the population. From 1961 to 1971 the number of tenants grew by 70 percent from 483,500 to 825,000. During the same period, tenant households increased from 29 percent to 37 percent of all households. The historical trends in the number of tenant households and their proportion of all households are depicted in Chart 3-1.

Chart 3-1
Rental and ownership dwelling stock in Ontario 1941 - 1976



Source: Census data 1941-1976

Ontario was the first Canadian jurisdiction to take steps in the direction of reform. In 1968 the Ontario Law Reform Commission produced its Interim Report on Landlord and Tenant Law Applicable to Residential Tenancies. That report reviewed a number of the consequences which the law produced and identified a number of matters on which immediate legislative action was thought to be required. The Ontario Law Reform Commission summarized the reasons for the law falling behind the needs of both landlords and tenants with respect to residential tenancies in the following fashion:

> The common law of landlord and tenant, over the centuries, has not developed any legal philosophy based on a theory of vital interests. The single most important feature of landlord and tenant law is the existence of the leasehold "estate" of the tenant. The vesting of the estate in the tenant underlies the rather fixed nature of the law and has caused courts to determine the rights of tenants according to rigid land law principles, rather than in accordance with the more realistic development of contract and tort law which would apply in the absence of the estate theory . . . Landlord and tenant law is not in a consistently logical sense concerned with the interests of landlord and tenants and it has not even attempted to define them. In a sense, the common law of landlord and tenant is mechanical in that its conclusions as to the rights of the parties are based on the fact of the "estate" not on any realistic standard of vital interests which the law will endeavour to protect.

Major developments in residential tenancy law — Ontario

Following The Ontario Law Reform Commission Interim Report, the Ontario legislature enacted The Landlord and Tenant Amendment Act, S.O. 1968-9, which added Part IV regarding residential tenancies to the Act effective January 1, 1970. Included in the matters dealt with by Part IV are the following:

- introduction of certain contract principles into residential tenancy law;
- creation of a duty on the landlord to repair and maintain all rented residential premises;
- abolition of security deposits for damages while permitting a deposit for the last month's rent;
- requirement of the payment of interest on the security deposit;
- requirement of delivery to a tenant of a copy of a written tenancy agreement when signed by the tenant;
- abolition of seizure of a tenant's goods for arrears of rent;
- prohibition of landlord or tenant changing the locks during occupancy without mutual consent;
- provision that a landlord could regain possession only under the authority of a court writ of possession and that landlords could not evict tenants without a court order;
- provision for some relief against landlords' retaliatory evictions.

On December 18, 1975, The Residential Premises Rent Review Act S.O. 1975 became law. It was enacted as temporary legislation providing for the review of rents by means of a statutory tribunal. Rent Review provided an informal forum for raising rental problems; however, it was intended to restrain excessive rent increases and so to curb inflationary pressures. It could not resolve other kinds of issues affecting landlords and tenants.

Security of tenure
The last major amendments to The Landlord and Tenant Act came into effect on December 18, 1975 at the same time as The Residential Premises Rent Review Act. It would have been difficult, if not impossible, to have effective Rent Review without taking some measures to ensure security of possession. Amendments to this end were made to the existing residential tenancy legislation. The major thrust of these amendments was to provide that:

- landlords or tenants who want to end weekly, monthly, yearly or fixed-term tenancies must notify each other in writing;
- the length of notice of termination was increased;
- landlords wishing to terminate tenancies are required to have a statutory cause for termination and state the reasons and particulars in the notice of termination;
- a judge of the County or District Court may not issue a writ of possession to evict a tenant unless the landlord can prove the reason for terminating;
- mobile home parks and mobile home owners renting sites in such parks were included under the legislation;
- specific rights and obligations relevant only to mobile home parks were added to the Act;
- non-lawyers are permitted to represent parties before the County or District Court Judge;
- the formal rules of evidence do not apply to these hearings and the judge may admit all relevant evidence;
- persons with common interests can apply as a class with the permission of the judge;
- there is protection against retaliation eviction for such matters as the formation of tenant associations.

Two further important developments in residential tenancy law have taken place in various Canadian jurisdictions.

A separate residential tenancy statute
In some jurisdictions it has been decided that residential tenancy law plays such a central role in regulating the housing field and is so frequently interpreted by non-lawyers, that the law should be contained in a separate statute. This has been done in:

Nova Scotia	– 1970
Newfoundland	– 1973
Saskatchewan	– 1973
British Columbia	– 1974
New Brunswick	– 1975

In addition, some separate residential tenancy statutes attempt to codify the law so that resort to other legislation and to the common law is minimized. This approach is frequently taken when jurisdictions create statutory tribunals to determine some types of residential tenancy disputes.

In Ontario, at present, much but not all residential tenancy law is contained in Part IV of The Landlord and Tenant Act. In addition to Part IV, sections of Part I of the Act are applicable, as is that part of the common law of leasehold estates which has not been altered by statute.

Standardization of tenancy agreements
Reform of landlord-tenant law has led in some jurisdictions to consideration of the tenancy agreement. Concern has often been expressed that the type of lease commonly in use is difficult for a non-lawyer to understand and is inadequate in setting out the full range of the landlord's and tenant's legal obligations. In response to these deficiencies, several provinces have taken steps to make the form of lease more uniform.

The provinces of Newfoundland, Nova Scotia and Saskatchewan have set out statutory conditions in their legislation which are to be reproduced in every written tenancy agreement. The landlord or tenant may agree to additional terms in the lease, provided they are not contrary to any of the statutory conditions.

The provinces of Manitoba and New Brunswick have, by regulation, provided a standard form lease which is applicable to residential tenancies. While the parties are free to provide certain types of additions to the agreement, any alteration to or deletion from the standard form lease is void.

The Ontario Law Reform Commission, in its 1976 Report on Landlord and Tenant Law, concluded that the standard form lease was preferable to the incorporation of statutory conditions. The thrust of the Commission's analysis centered on the need to ensure clarity and comprehensiveness in a proposed form of lease.

The present Ontario Landlord and Tenant Act does not specify the form of lease that is to be used. Section 82(1) of the Act does provide that the obligations and rights imposed by Part IV are applicable to residential tenancies "notwithstanding any agreement or waiver to the contrary."

The recently enacted British Columbia Residential Tenancy Act contains a number of statutory conditions applicable to all tenancy agreements and provides that certain terms are deemed to be included as part of any lease. Under the Act the Rentalsman has the power to declare unreasonable terms of a lease void. Also terms and conditions can be made applicable to tenancy agreements by prescribing them in Regulations under the Act.

The development of residential tenancy boards and tribunals

One of the most significant recent developments related to residential tenancies is the creation of boards and tribunals with jursidiction to perform many or all of the public services related to residential tenancy disputes. This has been carried farthest in British Columbia where, in 1974, the Office of the Rentalsman was established. This Office disseminates information, advises parties, mediates disputes, and acts as an informal "court" resolving disputes through adjudication powers. Its orders carry the weight of court orders.

The province of Manitoba has had a Rentalsman since 1970, but the Rentalsman's powers are not as extensive as those in British Columbia. Saskatchewan and New Brunswick have recently created the Office of the Rentalsman. Newfoundland and Nova Scotia have created residential tenancy boards, with jurisdiction to deal with some aspects of landlord and tenant matters.

There are many factors underlying this trend towards tenancy boards and tribunals. Recent legislation in most provinces has been enacted to redress the perceived imbalance of rights and obligations between landlord and tenant, and this has had significant consequences. A major factor influencing the creation of tribunals to deal with residential tenancy disputes is the perceived effect of attempting to have the new rights and obligations dealt with by the regular court system. All Canadian provinces have removed from landlords the right of direct repossession and have required them to obtain orders for eviction. If these matters are channeled through an already overburdened court system, the volume of new business can result in backlogs of cases and delays in determinations. Many provinces have created residential tenancy tribunals or boards to meet the demands of this new business.

Another major factor prompting the creation of boards and tribunals has been the underlying assumption that the regular court system is too formal in structure and procedure to summarily dispose of residential tenancy disputes. Some legislatures appear to have found it desirable to dispose of tenancy disputes expeditiously through the informal procedure of tribunals, where individual complainants would feel less inhibited in presenting their own cases than they might in a court environment. The characteristics of such a board or tribunal are briefly described by the Law Reform Commission of British Columbia as: "the ability to make quick decisions without evidentiary restriction based on a knowledge of what is generally acceptable behaviour between landlords and tenants and among tenants themselves . . ."

A further reason for selecting boards and tribunals over the courts lies in the administrative functions that can be performed by such an agency. Where these can be performed, the legislation can provide remedies to landlords and tenants which can more adequately deal with their needs than can the remedies of the regular court system. For example, one common problem of tenants is the interference by the landlord with the supply of vital services. The normal court process could deal with this matter only after it was too late to be effective. An administrative tribunal can be given power to order the utility to resume the supply of the vital service and to order payment to the utility.

Finally, an important reason for the creation of residential tenancy boards and tribunals is the consolidation of functions previously performed by several organizations. Without such a consolidation, an inquiring landlord or tenant must go to several different sources and may be given conflicting advice depending upon the skill and knowledge of the individuals encountered.

While many have hailed the development of tenancy boards and tribunals as an effective means of realizing the rights embodied in recent residential tenancy legislation, others have pointed out that such "rough justice" may run counter to well-established principles of procedure.

In Ontario, although there has been in force since 1975 some of the most protective residential tenancy legislation in Canada, there has not been any attempt, to date, to create an agency to perform many or all of the public services related to residential tenancy disputes. There is a division of jurisdiction over residential tenancy matters between the Ministry of the Attorney-General and the Ministry of Consumer and Commercial Relations, the former administering The Landlord and Tenant Act while the latter has responsibility for The Residential Premises Rent Review Act and the Rent Review Program. Rent Review Offices are restricted to reviewing rent increases.

Landlord and Tenant Advisory Bureaus, established by municipalities in Ontario under the authority of The Landlord and Tenant Act, are limited to offering their services to residents of the municipality for which they have been created. While they may inform, advise, mediate and investigate, they have no power to decide disputes. In many municipalities no such advisory bureau has been established and where they have, the bureaus vary widely in the extent of the services they offer. None of the bureaus have funding adequate to provide all the services which they are authorized to perform.

Chapter IV — Functions performed by residential tenancy boards and tribunals

The preceding chapter discusses the recent development of residential tenancy law and in particular the development of residential tenancy boards and tribunals with jurisdiction to perform many of the public services related to the resolution of residential tenancy disputes. That chapter also sets out the primary reasons why such tribunals have been established in other provinces.

This chapter explores in some detail the functions that may be performed by such tribunals. It also raises some of the arguments which may be made against the establishment of an informal board or tribunal to deal with various aspects of residential tenancy disputes.

It is important to bear in mind that the Rent Review Program has resulted in the establishment of a decentralized informal tribunal to deal with the matter of rents. Although this paper does not explore the possibility of utilizing this tribunal as the basis for a residential tenancy board in Ontario, it is obvious that such a potential exists. Both landlords and tenants have used this forum to express many of their grievances respecting tenancy matters unrelated to rent.

The functions performed by residential tenancy boards are discussed under the headings of: Information, Advice and Assistance; Mediation, Arbitration and Adjudication; Investigation and Participation in Prosecutions and Other Functions.

Information, advice and assistance

Because of the complexities of residential tenancy law, landlords and tenants must be informed of their rights and obligations and must have access to advice and assistance in pursuing their remedies. It must be noted that advice regarding rights and obligations is provided by lawyers. However, since the inception of new legislation altering residential tenancy rights and obligations, some provincial legislatures have indicated that there should be institutions in addition to the legal profession which inform and advise. The main rationale given for creating new institutions to perform these functions is the vast number of individuals affected by the changes in the law and the relatively small monetary value of individual disputes.

British Columbia, like Ontario, initially provided in its legislation for the establishment of specialized Landlord and Tenant Advisory Bureaus by municipalities. British Columbia is an example of the movement away from municipally-organized services to provincially-provided tenancy services. It found that voluntary municipal involvement was inequitable, as many municipalities decided that it was not in their best interests to establish such bureaus. As a result, many residents of that province were without advisory services and the Legislative Assembly of British Columbia amended its legislation to require municipalities to provide the service. However, the lack of municipal organization in parts of the province and the absence of any standard for the service ultimately made it clear that a province-wide service was necessary. In 1974, when further rights were conferred on tenants — particularly the right to remain in possession until the landlord had proven a statutory cause for termination — the Office of the Rentalsman was given the function of providing information, advice and assistance.

Manitoba and British Columbia provide walk-in advisory services in their large urban centres and service to outlying regions through a free, province-wide phone-in system.

The provincially-organized tenancy service in British Columbia has been effective in reaching landlords and tenants. The Metropolitan Toronto Landlord and Tenant Advisory Bureau is the largest service in Ontario. However, as Table 4-1 shows, a comparison of statistics on public inquiries to the Rentalsman's Office in Vancouver, which deals with the Greater Vancouver Regional Area, with those of the Metropolitan Toronto Advisory Bureau, indicates that the Office of the Rentalsman in British Columbia has significantly greater business. This comparison should not be construed as criticism of the Metropolitan Toronto Advisory Bureau which provides its functions well. The Rentalsman's Office has not only broad jurisdiction to determine residential tenancy disputes but also a sizeable publicity budget and more than ten times the staff of the Bureau. British Columbia and Ontario residential tenancy law, in general, is comparable.

Table 4-1
Landlord and tenant inquiries

	Greater Vancouver	*Metro Toronto*
1976 Population	* 1,056,894	* 2,081,521
1976 Inquiries	*** 187,933	** 53,133
1974 Rental units	* 116,315	* 347,127
Number of inquiries/rental unit/year	1.62	0.15
Ratio: Greater Vancouver to Metro Toronto	11.1	

Sources:

**Statistics Canada and Central Mortgage and Housing Corp.*
***Metro Toronto Landlord and Tenant Advisory Bureau*
****Office of the Rentalsman, British Columbia*

There are objections to combining such advisory services with authority to adjudicate. Of necessity, advice must deal with opinions of law and how that law would be applied to a given situation. Where a board or tribunal has the function of advising the public as well as determining disputes, it may be objected that the tribunal, in practice, is the law.

Mediation, arbitration and adjudication

Mediation may be described as an intervention between parties to a dispute for the purpose of reconciling them. The object of mediation is agreement of the parties as to the resolution of the issues in the dispute.

Arbitration may be described as a resolution of the issues in a dispute by a person or persons selected by both parties to the dispute. The authority of the arbiter derives from the agreement of the parties to abide by the determination. Arbitration differs from mediation in that the arbiter, not the parties, resolves the dispute.

Adjudication may be described as a determination of the issues in a dispute by a person or persons appointed, usually by the state. The authority of the adjudicator to determine the issues to a dispute derives from the statute law. Adjudication differs from arbitration in that both parties need not consent to an adjudication, but nevertheless are bound by the determination.

Mediation

Many landlord and tenant disputes can be settled by agreement without resort to either arbitration or adjudication if a person knowledgeable of the legislation and the possible outcome of any resolution and aware of the range or options available to the parties as well as skillful in the art of mediation, is interposed between them. Mediation itself has no binding effect (although enforceable written agreements can result from mediation efforts).

In Ontario, municipal landlord and tenant advisory bureaus are authorized to mediate tenancy disputes. However, since the parties are under no compulsion to seek mediation, and those who attempt mediation have no power to determine matters, the failure rate for such attempts is high.

A difficulty with mediation is that parties to a dispute often do not feel the tension of having something to lose by refusing to arrive at a settlement. As fear of losing one's whole case mounts, so the desire to compromise — to achieve some measure of success — increases. That is why, in civil litigations, settlements between the parties often occur "at the courthouse door" or even during the trial. Mediation without pressure often results only in a clarification of the legal issues involved.

In part, to create the pressure necessary to achieve settlements, several jurisdictions have combined the authority to mediate with the authority either to arbitrate the dispute on consent of the parties or to adjudicate most matters in dispute.

Arbitration

Manitoba has combined the mediation function with the authority of the Rentalsman to effect binding arbitration on prior consent of the parties. This has achieved significant results. The high costs of litigation in the courts, the loss of time from employment because of involvement in court proceedings, and the relative informality of the environment of the Rentalsman's Office, are all conducive to obtaining consent to arbitrate. In turn, the consent to arbitrate operates as an inducement to settle before the Rentalsman decides the case.

An objection has been raised to combining the functions of mediator and arbitrator. It has been suggested that an official who acts as both mediator and arbitrator will be unable to determine the matter strictly on the evidence adduced at a hearing. In short, the involvement of the arbiter as mediator may give him or her the appearance of being biased. However, since arbitration depends on the agreement of the parties to the determination by the arbitrator, this objection may not carry much weight.

One major problem with the Manitoba approach is that consent of the parties must be obtained to avoid resort to the courts. Those who wish to be obstreperous, or simply delay the rightful remedies of another, may refuse consent to arbitrate. The courts may then be used as a means of avoiding the law. The courts still must deal with significant numbers of residential tenancy disputes in Manitoba.

Adjudication

In British Columbia, since 1974, authority to mediate is combined with jurisdiction to adjudicate a dispute. In this approach, an official listens to both sides of the case and attempts to guide the parties toward a mutually agreeable solution. If a settlement is reached it is written into an agreement which, when signed by the parties, is enforceable. If an agreement cannot be reached, the official convenes a hearing with the parties present, hears evidence and arrives at a determination according to the law. The decision is legally enforceable.

Mediation-adjudication is a practical approach, ensuring rapid disposition of disputes, which prevents the dispute from degenerating into a personal vendetta between the parties. It also prevents other tenants from being adversely affected. Tenancy disputes are often volatile. A fair, quick determination by a board, even though it may not strictly accord with legal procedures, may be preferred to more protracted proceedings. This may be true even though the latter assures greater protection for the legal rights of the parties. Delay in these disputes often results in the abuse of legal rights. Tenants may be harassed out of possession; other tenants may move; disrepair may result in a tenant leaving; vital services may not be restored; a landlord may not be able to meet financial obligations. A quick, practical remedy, though formally imperfect, may be better than no remedy at all.

The mediation-adjudication approach is conducive to informal hearings in which the individual parties, particularly tenants and landlords owning few units, will feel comfortable in presenting their case or application personally.

As Table 4-2 shows, the mediation-adjudication by tribunal approach employed in British Columbia settles far more disputes than does the court-adjudication approach in Ontario. This may indicate that the tribunal approach results in fuller implementation of the intentions underlying residential tenancy legislation and it may indicate better service to the public. Table 4-3 gives some indication of the disposition of the cases during 1976 in British Columbia.

The Office of the Rentalsman in British Columbia has accomplished a relatively rapid determination of disputes. In British Columbia, there is no fee charged, as the services and costs are borne by the taxpayers.

The argument against the mediation-adjudication approach, using a tenancy board or tribunal, is principally that the short-cut procedure does not assure the proper protection of legal rights. As discussed ealier, one key objection is that the hearing officer may be biased by what he has learned through his attempt to mediate and will not be able to decide the case on the actual evidence at the hearing. At least the officer may seem to be acting unfairly. Where mediation is combined with adjudication, this agreement is stronger than where it is combined with arbitration on consent. Tribunals with both investigative and adjudicative functions can provide for different officials to perform each task. In the courts, a pre-trial hearing is sometimes held by a judge to attempt to effect settlement of a dispute and to limit the issues to be determined at a trial. The same judge will not preside at the trial. In labour disputes, mediators are precluded from arbitrating. The required involvement of two officials instead of one, however, may protract proceedings somewhat.

The Residential Tenancies Act, which came into effect on November 1, 1977 in British Columbia, confers exclusive jurisdiction on the Rentalsman to:

- declare any clause in the tenancy agreement governing the tenant's enjoyment of the premises as unreasonable and unenforceable;
- make an order respecting a right conferred by the Act or a tenancy agreement, such as the right of either the landlord or tenant to occupy the residential premises;
- determine when a tenancy is to be terminated, having regard to the cause of termination set out in the statute;
- direct that the tenant pay his rent over to him where he determines that the landlord has failed to meet statutory obligation to maintain the rented premises (where the Rentalsman determines that an emergency exists, he may make the repairs from his own funds and then deduct the amount from the rent paid over or in default of payment from the landlord);
- award compensation for arrears of rent and/or damage to the rental premises up to one-half of the value of the rent;
- exercise a supervisory function over the disposal of goods left behind by tenants who have abandoned or terminated their tenancies;
- settles issues concerning deposits;
- advise landlords and tenants in tenancy matters;
- disseminate information for the purpose of educating and advising landlords and tenants with respect to rental practices, rights and remedies;
- investigate possible violations of the statute;
- mediate disputes between landlords and tenants;
- arbitrate disputes between the parties (the Rentalsman may arbitrate matters beyond his exclusive jurisdiction provided the parties agree in writing).

While the jurisdiction of the British Columbia Rentalsman is broad, it is not all-encompassing. For example, parties must still proceed in the courts for determination of an action for arrears of rent and/or damage to the rented premises in excess of one-half of the value of one month's rent.

Appeal from the orders of the Rentalsman in British Columbia is to the Court of Appeal and is limited to appeals based on the interpretation of the law and to appeals on the basis of the Rentalsman's lack of jurisdiction. In practice few appeals to the courts have materialized.

Investigation and participation in prosecutions

Two important functions of a residential tenancy board or tribunal remain for discussion, those of investigation and participation in prosecutions.

Investigation

The courts have no investigative capacity. They must act only on the evidence presented at a hearing. The courts have no ability to investigate or to collaborate testimony given or to verify allegations of fact. A board or tribunal need not be so limited. Tenancy boards in other provinces do require the parties to prove their cases. However, in British Columbia and Manitoba, the tribunal

Table 4-2
Landlord and tenant cases processed (1976)

	British Columbia	*Ontario*
Number of files opened	* 10,215	** 6,679
Number of files closed	* 9,824	*** 5,368
Estimated number of residential rental units	300,000	1,000,000
Number of files opened as a percentage of estimated number of residential units	3.4	0.7
Ratio: B.C. to Ontario	5:1	

Sources:

**Offices of the Rentalsman, British Columbia*
***County and District Court Appointments*
****County and District Court Resolutions*

Table 4-3
Landlord and tenant cases 1976
British Columbia

*Disposition of closed files**	*Number*	*Percent*
Unjustified	149	1.5
Settled satisfactorily	8,871	90.3
Settled unsatisfactorily	286	2.9
Legal action recommended	233	2.4
Record only	285	2.9
Total	9,824	100.0
Files closed satisfactorily	*Number*	*Percent*
In favour of landlord	2,633	29.7
In favour of tenant	3,546	40.0
Compromise	2,692	30.3
Total	8,871	100.0

**As categorized by the Rentalsman Officer*

has the capacity, where needed, to do some fact finding. Where such inquiries are conducted in connection with adjudication or arbitration, the tribunal gives the parties notice of its findings and an opportunity to rebut the findings. It may then make the findings of the investigation part of its own consideration in arriving at a determination. Investigation may be as simple as confirmation by telephone of what some party at the hearing has alleged that a witness has said. In some jurisdictions a physical inspection of premises has been made possible by a court order authorizing entry to the premises.

Objection may be made to the tribunal using the findings of its investigation as part of the basis for decision. It violates the concept of a judicial function which is to be a passive, unbiased determiner of the issues based upon the law being applied to the facts, as shown by the evidence adduced by the parties. Once the tribunal investigates and uses the findings in adjudicating, it may lose its appearance of impartiality.

The Law Reform Commission of British Columbia, in its Report on Landlord and Tenant Relationships (Project #12) stated:

> Because we view the Rentalsman as having an investigatory function as well as acting as a referee between a landlord and a tenant, we would also grant him the power to obtain access to records and to premises which the Manitoba Rentalsman has been granted. Although, in the ordinary course of events the Rentalsman ought, in order to operate efficiently, to place the burden on producing evidence on the party or parties before him, he may reach a point where he believes he can come to a fair decision only where he has himself seen records, (for example, where it is alleged that rent has not been paid), or premises, (where it is alleged that damage has been caused). As these are sweeping powers, we would also adopt the Manitoba position of having the Rentalsman apply to a Judge of a County Court before being granted these orders of access and of imposing a duty of confidentiality on the Rentalsman.

A more limited rationale for a Rentalsman's Investigatory function is that the matters that must be dealt with may become quite technical and because of this he must take a more active role to protect the rights of the parties and to obtain information as to whether statutory obligations have been fulfilled.

Participation in prosecutions
Under residential tenancy legislation in all provinces, breach of some duties imposed on landlords and tenants is punishable on prosecution. Often tenants and landlords of smaller holdings do not have the resources to gather the evidence necessary for a successful prosecution. Prosecution may not be of value to the complainant as he or she may no longer have a tenancy relationship.

In British Columbia and Manitoba, it is felt that the board or tribunal responsible for the effective operation of residential tenancy law has an interest in the preparation of prosecutions. In some instances a failure to prosecute offenders could result in a loss of credibility. In both provinces the actual prosecution is by the office of the Crown Attorney.

Other functions
Where a residential tenancy board or tribunal is given responsibility for the effective operation of residential tenancy law, it is in the unique position to identify requirements for remedial action. It may deal with problems of landlords and tenants which concern health, safety, welfare, public housing etc. Many such problems can be referred to appropriate municipal or provincial authorities. A liaison and information function could relieve many emotion-laden situations by directing persons to appropriate sources of assistance.

It will also collect statistics on all aspects of the functions it performs. These statistics and the collective experience of officials in serving the public should provide insights into the adequacy of the legislation and its ability to meet the needs of landlords and tenants.

Section B
An analysis of some alternatives

The foregoing section of this paper has illustrated that a concern for the continuing protection of tenants necessitates considering both short and longer term implications and, in addition, matters other than simply rents. It has shown that any consideration of such policies should encompass concern for the overall performance of the rental housing sector and landlord and tenant law, as well as the regulation of rents.

To this end, the first section of this paper has traced the factors that led to rent controls (Chapter I), explored the operation of the rental housing market under rent controls (Chapter II), reviewed the recent development of residential tenancy law in Canada (Chapter III), and examined the functions performed by residential tenancy boards and tribunals (Chapter IV).

The following section of this paper sets out and comments on some of the policy alternatives that should be considered in any ensuing discussion about legislation for the continuing protection of tenants. It presents for discussion important considerations affecting policy alternatives relating not only to Rent Review, but also to residential tenancy law and to housing and related policies.

The section first presents some of the overall approaches that should be considered in each of these three areas (Chapter V) and then outlines the specific policy options (Chapter VI) which may be examined. Finally it illustrates how various of these options and overall approaches can be combined (Chapter VII).

In dealing with the overall approaches considered, the paper attempts to analyze these as they relate to five basic criteria that emerge from the foregoing section of the paper as recurring themes of concern.

The first of these is the objective of availability of an *adequate quantity and quality of rental housing.* People require places to live and these places should be readily available and be able to meet elementary standards of acceptability.

The second of these is a concern for the *affordability of rental housing* by tenants. Rental housing should not be so expensive as to cause a large proportion of the rental population to be forced to make a choice between having access to adequate shelter and being able to support adequate standards in other areas of consumption of necessities.

Third, there is a requirement that *landlords' operations be financially viable.* Private landlords must earn enough from their rent revenues to not only meet their expenses, but also to provide for a return on their investment if a continuing supply of rental housing is to be assured.

Fourth, it is desirable that *resolution of landlord and tenant disputes* be accomplished with fairness and a minimum of delay. Both landlords and tenants have rights and responsibilities under the law, and both have reason to expect that the structural mechanism for determining tenancy disputes will ensure that these rights and responsibilities will be mutually respected.

Finally, there is a need for *government financial restraint.* Responsible approaches to rental housing questions must, therefore, consider the implications of proposals within the context of the fiscal position of governments.

Each of the five criteria enunciated relates to a desirable social objective. It would be ideal if there were some mix of policies that would permit all objectives to be met in full, but unfortunately, conflicts exist between objectives. For example, the objectives of affordability of rental housing and financial viability of landlords' operations can be simultaneously met only if the objective of government financial restraint is ignored. As a result, policy formulation must seek a balance between these considerations and the legitimate interests of the various parties to the discussion.

To return to an observation made at the outset of the paper – there are also important common interests between the parties involved. Tenants need landlords and landlords need tenants. A single-minded pursuit of narrowly defined interests will almost assuredly leave both parties worse off. It is important, therefore, to recognize this mutual dependence.

It is hoped that, in the discussion that follows the publication of this paper, participants will keep the above criteria in mind and will state their policy viewpoints with a recognition of the need for balance among these objectives.

Chapter V – Evaluation of overall approaches

In the analysis of alternatives, it is useful to distinguish between two levels of decision-making. The first level involves the selection of an overall approach. The second level involves the selection of specific policy options that are consistent with the overall approach chosen at the first level.

There are two major advantages to using this two-step approach. First, the discussion of the overall approach focuses on the selection of ends or objectives. The discussion of the specific policy options will be mainly of means and will be more technical in nature. Of course, both first and second levels of decision-making will involve issues related to both ends and means; nevertheless, it is felt that the approach is advantageous in dealing with the issues at hand.

Second, the two-stage approach is a way of reducing the complexity of the problem to manageable proportions. By breaking the problem down into smaller sets of choices, the issues become clearer and easier to grasp.

In this chapter the first-level decisions, related to the selection of the overall approach to be taken, will be considered. The next chapter will then take up the second-level decisions.

As has been seen, there are three areas in which choices may be made as to the overall approach to be adopted:

- a choice regarding the future of Rent Review;
- a decision regarding the way in which residential tenancy disputes are resolved; and
- the question as to what rental housing goals are to be attained.

It will be seen that these decisions have inter-relationships – that decisions in one area will have implications for the decisions to be made in other areas. This means that the final result should involve a balanced and integrated package of approaches to rents, landlord and tenant matters, and housing policies.

The future of Rent Review

There are four overall approaches that could be taken:

1. continue the program more or less as it is;
2. alter the program, with basic changes aimed at relaxing controls;
3. alter the program, with increased exemptions of various categories;
4. terminate the program.

It should be noted that approaches 2 and 3 are not mutually exclusive. Furthermore, as will become apparent in the next chapter, specific policy options from either of them could be combined into a decontrol phase for the Rent Review Program.

To continue the program basically as it is would require a further extension of existing legislation past its current termination date at the end of 1978. In addition, this approach would accommodate minor housekeeping amendments that would clear up operational problems in the program and could incorporate changes such as those suggested in the next chapter.

To alter the program with basic changes to somewhat relax the controls would involve extending the legislation, but with amendments that would have the effect of permitting landlords, in general, to achieve an adequate rate of return and would serve to lessen the cost-revenue imbalance described in the first section of the paper.

To alter the program with increased exemptions would mean an extension of the dual rental housing market – one market consisting of rental units under control and another of units free of controls. Aspects of the exemption approach could be combined with aspects of the approach which extends the program with basic changes to make up a decontrol phase for Rent Review.

To terminate the program would not require any further actions on the part of the legislature in that the existing legislation automatically repeals itself at the end of 1978. This approach, by and large, would mean the return to free market rents, although some residual tenant protection over unconscionable rent increases might be legislated. It should be pointed out that this will not always mean rents will increase in that rents on some units will already be at market levels – especially in areas with high vacancy rates.

It may be useful to begin the analysis of these alternative approaches with Table 5-1 in which each of the four approaches is evaluated by the five basic criteria discussed in the introduction to this section of the paper. An explanation is provided below for each rating in the table.

The ratings in Table 5-1 are relative to the current state of affairs and are focused on potential impact over the next few years rather than on the ultimate long-term result of such policies followed over many years.

The criteria will be considered in the same order as given in the table:

- Landlords' operations financially viable;
- Affordability of rental housing;
- Adequate quantity and quality of rental housing;
- Resolution of landlord and tenant disputes;
- Government financial restraint.

This order is by no means meant to indicate priority of importance; indeed, the relative importance of these criteria and the relative weighting of the ratings will undoubtedly vary among readers of this paper.

Table 5-1
Evaluation of overall approaches
Future of Rent Review

	Alternative approaches			
Basic criteria	*Extend as is*	*Make basic changes*	*Increase exemptions*	*Terminate*
Landlords' operations financially viable	Worse	Better	Better	Much better
Affordability of rental housing	Indeterminate	Worse	Worse	Much worse
Adequate quantity and quality of rental housing	Worse	Better	Better	Much better
Resolution of landlord and tenant disputes	Worse	Worse	Worse	Worse
Government financial restraint	Same as present	Same to better	Better	Much better

Ratings compare the future impact over the next few years of each of the alternatives against current conditions.

Landlords' operations financially viable
An adequate rate of return is of direct importance to the landlord. It is the prospect of such a return that provides landlords with the incentive to acquire and maintain rental housing.

Financial viability is also of interest to tenants. If landlords do not have any incentive to supply and maintain rental units, tenants will suffer a decline in their housing conditions.

1. Extend as is – worse
   The continuation of Rent Review in its current form would limit those going though the Rent Review system to increases in rent revenue no greater than the increases in costs. This means no narrowing in the gap between the costs of new supply and the generally prevailing level of rents. It also implies a falling real value of return as inflation eats away at the value of the fixed dollar profit margin. For those accepting the guideline limit without Rent Review – even for those experiencing lower than average rates of total cost increase – the improvement in the dollar amount of return may not be large enough to offset the effects of inflation. Finally, the existing system locks in widely differing rates of return for landlords. For those with financial loss, it permits only a return to the break-even position of no return.

2. Make basic changes – better
   Changes aimed at relaxing controls will lead to some improvement in rate of return. Further, well-chosen methods could eliminate some part of the discrepancy in returns between landlords. It should be noted, however, that full return to market rates of return would likely be delayed until the program was terminated.

3. Increase exemptions – better
   Using the exemption route would mean that some landlords would be able to move toward market rents without direct restraint while others would still be under controls. This might well mean increased degrees of inequity for landlords.

4. Terminate – much better
   With the end of Rent Review, landlords could move rents back to levels fully consistent with the economic viability of the sector. This movement would by no means be instantaneous as landlords would phase-in increases. Furthermore, it is probable that some residual form of tenant protection would remain to avoid unconscionable rent increases.

Affordability of rental housing
Unfortunately, one man's financial viability can be another's affordability problem. It should be remembered that, as indicated in the first section of this paper, in 1974 about 30 percent of all tenants in the nine major urban centres paid one-fourth or more of gross income on rent; and 20 percent of tenants were paying over 30 percent of their incomes on rent. This would mean that 70 to 80 percent of tenants were not facing a serious affordability problem as it has been defined.

It should be stressed that the ratings here relate to the impact of Rent Review options when they are considered in isolation. A deterioration in affordability due to changes in Rent Review could be offset by the introduction of measures involving general income or housing related transfer payments to those with low incomes.

1. Extent as is – indeterminate
   For those not going to Rent Review, the proportion of income going to rent will change according to the guideline limit established for rent increases as compared to the rate of income increase experienced in the post Anti Inflation Program period.

   For those going through the Rent Review hearing process, their affordability position will be made better or worse, depending on the cost experience of their landlords.

2. Make basic changes – worse
   Changes in the program that increase landlords' rate of return will also have the effect, on average, of increasing the housing expenditure-to-income

ratios of tenants. Such increases could be made more gradual by appropriate design to limit impacts.

3. Increase exemptions – worse
   There is a split here between the impact on those living in units freed from controls and those left under controls. The former will, in many cases, experience increases in housing expenditures relative to income; while the latter, on average, would experience a neutral impact.

4. Terminate – much worse
   The return to market rents would be limited by the extent to which landlords phase-in increases. Large increases might occur and some residual tenant protection over unconscionable increases may be desirable to moderate the incidence and extent of increases.

Adequate quantity and quality of rental housing
As was discussed in the first section of this paper, the availability of housing is directly related to the financial viability of the rental sector. Additional private rental investment is forthcoming only in an environment that permits a competitive rate of return to be earned. Further, it is important that uncertainty as to the return be limited to an acceptable level.

The quantity and quality of rental housing is also of direct importance to tenants. It, along with affordability and quality of landlord and tenant relations, form the basis for tenants' housing satisfaction.

1. Extend as is – worse
   In that average rates of return will decline in terms of value as inflation continues, private building will not proceed in the absence of heavy direct and indirect subsidies. Even with large amounts of such subsidies, as in the current combined Assisted Rental Program, Ontario Rental Construction Grant, building levels can be expected to fall below requirements.

2. Make basic changes – better
   As landlord rates of return improve building will start to revive, provided there is an adequate level of certainty in the operation of the system. The speed and strength of the revival will depend on the rate at which the changes take effect.

3. Increase exemptions – better
   To some extent, building of the excluded types of housing may be increased. Given the inter-relationship between rental markets for different types of rental accommodation, such a revival is likely to be limited in extent.

4. Terminate – much better
   Provided there is some certainty as to the permanency of the removal of controls, building can be expected to revive more strongly than under the other options.

Resolution of landlord and tenant disputes
The outlook for landlord and tenant relations in the absence of specific measures to improve the means of handling disputes, may well deteriorate under any of the overall approaches to Rent Review.

1. Extent as is – worse
   While Rent Review has provided a forum for the voluntary resolution of some landlord and tenant matters other than rents, the longer it is extended the greater the dissatisfaction of landlords earning no, or very low, rates of return. Pressure to cut costs by reducing services will increase with the accompanying potential increase in tenant dissatisfaction. Further, there may be increased temptation to evade rent controls directly, with the resulting conflicts.

2. Make basic changes – worse
   While this option would relieve the financial pressure on landlords, it does so by increasing rents paid by tenants. Thus, the source of dissatisfaction is shifted.

3. Increase exemptions – worse
   In some cases where units have been freed from controls, large increases may occur. Where units are still controlled, restricted landlord profits may lead to service cutbacks. Further tension may result from the fact that some landlords are experiencing improvement in their position, while others are not; and some tenants are still under controls, while others are placed in a free market situation.

4. Terminate – worse
   Landlord-tenant tensions may be increased by landlords attempting to use rent increases as an eviction technique. The worst of these situations could be moderated through some residual tenant protection over unconscionable increases.

Given the potential for conflict under any of the Rent Review options, there is an increased importance to making improvements in the way in which landlord-tenant disputes are resolved. The alternative approaches to this will be discussed below.

Government financial restraint
At this point, we will consider only the costs of the province related to the administration of the Rent Review Program. The costs associated with other policy changes that may be introduced simultaneously will be discussed separately under the policy area concerned.

1. Extend as is – some as present
   Given a continuation in the level of services provided by the program, one may expect the same level of costs.

2. Make basic changes – same to better
   Potential exists to introduce changes that reduce either the workload of the program or to speed up determinations. Such a reduction in workload will lead to a corresponding reduction in costs.

3. Increase exemptions — better
   By reducing the number of units covered by the program, the workload and associated costs should be reduced as well.

4. Terminate — much better
   Complete elimination of the program implies an end to the province's financial commitment. Any residual tenant protection over unconscionable increases implies a minimum ongoing commitment.

Clearly there is room for considerable difference of opinion on the selection of an overall approach to Rent Review. Indeed, there will be further considerations and arguments that have not been included in this analysis. The discussion that will follow the release of this paper, therefore, will be invaluable in the process of selection of an overall approach to the future of Rent Review.

The structure for landlord and tenant dispute resolution

There are several approaches which could be taken regarding an administrative structure to deal with the resolution of landlord-tenant disputes. This paper will discuss the four options listed below, the second, third and fourth of which differ in the important aspect of how much authority to resolve disputes is given to the tribunal suggested.

It should be noted that such a tribunal could be provincial, municipal, or established on some other basis. This paper will not discuss the merits of locating a tribunal within a jurisdiction; rather it will discuss the merits of the tribunal itself. The four overall approaches that will be considered are:

1. Continue the current structure with adjudication by County and District Court judges as at present;

2. Establish a residential tenancy board or tribunal to inform, advise, mediate and, on consent of parties, arbitrate disputes;

3. Establish a residential tenancy board or tribunal to inform, advise, mediate, arbitrate on consent and, in addition, confer on it limited authority to adjudicate matters such as the right to possession;

4. Establish a residential tenancy board or tribunal with broad powers including authority to adjudicate significant matters of dispute arising during a tenancy.

To continue the present structure would not require any major legislative changes, although certain legislative changes, as indicated in the following chapter, may be considered within the present structure. The court could continue to adjudicate as it does now.

To establish a tenancy board or tribunal with the functions of mediation and arbitration on consent would require major changes in legislation. The board would likely replace the existing municipal advisory bureaus but adjudication would continue to be a court function.

To establish a tenancy board or tribunal with the functions of mediation and arbitration on consent and some limited authority to adjudicate would require the courts to be still significantly involved in adjudicating disputes but some of their caseload would be reduced. It would result in some parties being required to use two dispute resolution structures instead of one.

To establish a tenancy board or tribunal with broad adjudicative functions would require major legislative change and the adjudicative role of the courts would largely be to hear appeals from the tribunal.

As was done in the analysis of alternative approaches to Rent Review above, it is useful to begin this analysis with Table 5-2 in which each of the four approaches is evaluated by the five basic criteria discussed in the Introduction to this section of the paper. An explanation is provided below for each rating in the table.

Table 5-2
Evaluation of overall approaches
Structure for landlord and tenant dispute resolution

	Alternative approaches			
Basic Criteria	*Continue as is — court adjudication*	*Tribunal to mediate & arbitrate on consent*	*Tribunal with limited authority to adjudicate*	*Tribunal to adjudicate significant disputes*
Landlords' operations financially viable	Worse	Worse	Better	Much better
Affordability of rental housing	Same as present	Same as present	Same as present	Same as present
Adequate quantity and quality of rental housing	Worse	Worse	Better	Much better
Resolution of landlord and tenant disputes	Worse	Better	Better	Much better
Government financial restraint	Worse	Worse	Worse	Worse

Ratings compare the future impact over the next few years of each of the alternatives against current conditions.

The criteria will be considered in the following order:

- Resolution of landlord and tenant disputes
- Landlords' operations financially viable
- Affordability of rental housing
- Adequate quantity and quality of rental housing
- Government financial restraint.

As previously stated, the order does not indicate a priority of importance which, undoubtedly, will vary among readers of this paper.

Resolution of landlord and tenant disputes
As indicated in the first section of this paper, the period from the mid-1960s to the present has witnessed a remarkable evolution of residential tenancy law. New landlord and tenant rights have been established in an attempt to arrive at realistic standards of vital interests.

In Ontario the creation of these rights has not been accompanied by the formation of a special institution designed to enhance the individual's ability to effectively enforce them. Instead the County and District Courts have been required to determine any disputes concerning the application of the law. Despite attempts to adopt procedures to simplify the process of residential tenancy dispute resolution in the courts, there are indications that the courts are not the best forum for the determination of such disputes.

1. Continue as is — worse
   Tenants and landlords with few units are finding that court action is an impractical means of resolving many of their disputes. Continuing court adjudication will increase the degree and extent of the frustration of those who possess the legal rights but who do not have a practical means of enforcement.

2. Tribunal to mediate and arbitrate on consent — better
   The establishment of a tribunal with a duty to inform and advise the public regarding tenancy law would improve public knowledge and access to the law. Areas of the province which are now without adequate advisory services would benefit.

   Where landlords and tenants have honest disagreements, a mechanism for dispute resolution through arbitration on consent would exist. This structure would result in better public service.

3. Tribunal with limited authority to adjudicate — better
   Under this structure, not only would there be a tribunal to inform, advise and arbitrate on consent, but limited powers to adjudicate would be conferred.

   The adjudicative functions would likely be those where there was a premium on expeditious determination or where a court cannot provide the best service. This would likely include: determining validity of cause for termination and issuing eviction orders and the determination of whether essential maintenance and repairs were adequate and, where they were not, issuing orders for work to be done. Such a tribunal also would likely be given jurisdiction to supervise the disposition of personal property abandoned on rented premises and to settle issues concerning rent deposits. Such a tribunal could also provide information, advice and assistance and would attempt to mediate disputes.

   One problem associated with giving limited adjudicative functions is that persons seeking remedies outside the limited number provided for would still be required to go to the courts. This would mean that two proceedings could be required instead of one which would result in cost and inconvenience to the parties.

   Evaluating this structure as an improvement over the existing system involves the judgement that, with respect to residential tenancy disputes, decreases in procedural safeguards which could result from use of a tribunal are outweighed by its greater accessibility and expeditious determination.

4. Tribunal to adjudicate many significant disputes — much better
   Assuming that greater speed of determination, greater accessibility by landlords and tenants, informality of hearings and minimization of costs to the user outweight any reduced emphasis on procedural formality, a tribunal would provide a better structure for the resolution of tenancy disputes than the present structure.

   Such a tribunal would also provide information and advice, and would attempt to mediate disputes. It would have the capability of conducting its own investigations and ensuring compliance with the residential tenancy legislation. Through it administration of the legislation, the board would be capable of making appropriate recommendations for improvements to the legislation.

   It is likely that the establishment of such a tribunal would satisfy many needs of landlords and tenants that are not currently met. A small percentage of irresponsible landlords and tenants are currently able to take advantage of the limited ability of some landlords and tenants to remedy their problems in a practical way. A tribunal could facilitate the resolution of legitimate problems and provide a simple recourse from the actions of irresponsible parties.

Landlords' operations financially viable
Changes in the structure for landlord and tenant dispute resolution will affect the financial viability, in particular, of those landlords who are marginally financed, that is where the ability of the landlord to continue payment of mortgage and taxes is directly and crucially dependent upon regular and prompt receipt of rent. Default in a mortgage payment may result in an immediate liability for payment, backed up by the right of the mortgagee to realize the mortgage security. The landlord-owner does not have protection from action by the mortgagee comparable to that protecting the tenant from action by the landlord. With respect to the financial viability of the landlord, changes in the structure would likely have the following effects:

1. Continue as is — worse
   Tenants are becoming aware that they can forestall landlords from obtaining arrears of rent and delay eviction by disputing applications to the court even when there is no valid defence on the merits of their case. The time delays caused by backlogs in the courts are one factor in protracting disputes. Another factor is the reluctance of landlords to apply to the courts because of the costs of obtaining legal assistance and their unfamiliarity with the collection and eviction procedures under the Act. Some community legal services have a policy of refusing assistance to impecunious landlords. These factors will decrease the financial viability of landlords.

2. Tribunal to mediate and arbitrate on consent — worse
   Little improvement from the above can be expected for the financial viability of landlords if a tribunal is given powers to inform, advise, mediate and arbitrate on consent only. While landlords will have greater access to advice in applying to the court, so will tenants. A tenant whose purpose in disputing the landlord's court application is simply to gain time and to frustrate the landlord's attempts to gain possession will not consent to an arbitrated settlement by the tribunal.

3. Tribunal with limited authority to adjudicate — better
   One of the most likely adjudicative functions to be given to such a tribunal is the determination of the validity of notices of termination by a landlord and the power to order eviction. The availability of a low-cost, informal and expeditious tribunal would encourage early application by landlords for eviction of tenants for non-payment of rent. While the tribunal would not have the power to order payment of arrears of rent or compensation for over-holding, the expeditious determination of possession would prevent arrears of rent from mounting to prejudice seriously the financial viability of the landlord.

   Taken by itself, this consideration leads to the conclusion that this rating should be "much better" rather than "better". However, such a tribunal could also be given the power to order essential repair and maintenance to be carried out by the landlord. While tenants now have the right to apply to the court for repair and maintenance orders, they do not do so frequently because of delay in obtaining their remedies and a lack of an effective administrative mechanism to enforce orders. It is likely that if a board were to be given jurisdiction to determine such matters, there would be more frequent applications and the costs to landlords resulting from determinations would affect their financial viability in the short term. For this reason financial viability is rated as being "better" rather than "much better".

4. Tribunal to adjudicate many significant disputes — much better
   The availability of a low-cost, informal and expeditious tribunal with the power to adjudicate matters of major importance to landlords and tenants would encourage early application by landlords for their remedies. Having little or no opportunity to obtain lengthy delays, tenants are more likely to pay rent on time where a tribunal is available.

   In addition to the benefits noted under the third option above, landlords could also have summary determination of rent arrears and property damage caused by tenants. The availability of expeditious remedies against the disruptive tenant would also minimize the likelihood of terminations by other tenants whose privacy and enjoyment have been adversely affected by such disruptions.

Affordability of rental housing
The policy decision taken with respect to the structure of a tenancy dispute resolution mechanism by itself would not have significant effect on the affordability of rental housing. However, it should be pointed out that if a number of small landlords leave the rental housing market because of the various reasons stated in this section, there would be additional pressure for rent increases and some increase in affordability problems.

Adequate quantity and quality of rental housing
Decisions as to the structure of a tenancy dispute resolution mechanism are likely to have some effect on the quantity of units provided to the rental housing market, particularly by small landlords.

The question of whether to invest in rental housing stock will be viewed by large corporations in terms of the profitability of rental housing as opposed to the profitability of a range of other investments. Small landlords, however, will not only consider profitability but also will decide based on more subjective considerations.

If the law and procedures under it give rise to landlords being forced to leave non-paying or destructive tenants in possession for months without redress, many landlords may choose to leave the rental accommodation business. Prospective landlords who might build or invest in converting large homes to duplexes, or triplexes, may not do so and walk-up buildings may not be constructed.

Decisions as to the structure of a tenancy dispute resolution mechanism also affect the quality of rental housing. Delays in the eviction of disruptive tenants may result in serious and prolonged distrubance to the peace, comfort and privacy of responsible tenants. Such distrubances degrade the quality of life in rental housing.

The accessibility of a dispute resolution mechanism capable of effectively enforcing essential maintenance and repair of rental accommodation may be the determining factor as to whether some tenants can enjoy the rights given by agreement or by law. The ability to have such repair and maintenance standards enforced would improve the physical quality of some rental housing.

The impact of the structure of a tenancy dispute resolution mechanism on the quantity and quality of rental housing is as follows:

1. Continue as is — worse
   Many landlords and tenants feel insecure in bringing an application to the court personally and find the cost of hiring a lawyer expensive.

   The delays in the courts and the difficulties of formally providing cause for termination are giving rise to feelings of frustration. Delays in removal of tenants who are interfering with the enjoyment of other tenants can result in other tenancies being terminated. This creates a climate which is unfavourable to the provision of rental units by new landlords.

   The courts are not a very convenient, accessible, or efficient mechanism for resolving disputes regarding repairs and maintenance. The courts do not possess administrative machinery capable of adequately coping with possible remedies such as orders for rent to be paid into trust until repairs are made. The courts do not possess the investigative capacity required to determine the extent of the repairs needed nor the administrative capacity to have necessary repairs done. They cannot act quickly to rectify such breaches of the law as withholding of, or interference with, essential services.

2. Tribunal to mediate and arbitrate on consent — worse
   This change would not improve a deteriorating situation for the same reasons indicated under the heading of Landlords' operations financially viable above.

3. Tribunal with limited authority to adjudicate — better
   The power to determine validity of notices of termination and the power to order eviction, could be adjudicative functions given such a tribunal. Expeditious determinations not involving the landlord in legal costs would prevent many abuses of landlord rights. Landlords would not withdraw housing from the market and would not be reluctant to provide new units if to do so is profitable.

   The ability to expeditiously terminate leases of noisy and destructive tenants would improve the quality of life for other tenants.

4. Tribunal to adjudicate many significant disputes — much better
   Provision of an expeditious, low-cost dispute-resolution mechanism to determine most tenancy problems should make entry of a prospective landlord into the market more attractive and increase the quantity of rental housing. Effective enforcement of tenant rights would improve the quality of rental housing.

Government financial restraint

Any improvement in the existing system or the establishment of a board or tribunal will likely result in the expenditure of additional provincial funds. The ratings below are based on the assumption that a board or tribunal would be financed out of general revenues.

However, it may also be possible to defray the costs of such a tribunal by having it indirectly financed in whole, or in part, by those who would use its services. For example, the deposit for the last month's rent is now paid to the landlord, who must pay interest on it to the tenant at 6 percent. If this deposit were payable in trust to the tribunal to be held until the end of the tenancy, with the right to interest being that of the tribunal instead of the tenant, the interest could be used to defray the tribunal's costs. Landlords might also be willing to defray part of the costs of a tribunal if it were devised so as to simplify speedy resolution of problems.

1. Continue as is — worse
   If the existing system for dealing with landlord and tenant disputes remains, it is likely some improvements would be made.

   Improvements in the existing system could be made to reduce delay in the courts through the provision of additional court clerks and by requesting federal appointment of additional county judges. Information and advice could be made more available to residents of the province by the establishment of more landlord and tenant advisory bureaus. These limited improvements would require some additional expenditure of funds.

2. Tribunal to mediate and arbitrate on consent — worse
   See below.

3. Tribunal with limited authority to adjudicate — worse.
   See below.

4. Tribunal to adjudicate many significant disputes — worse
   The establishment of tribunals of the kinds listed above involves additional expenditures. It is likely that the establishment of a tribunal would result in a phasing out of existing municipal Landlord and Tenant Advisory Bureaus with consequential municipal savings.

   There could also be a decrease in legal aid and some decrease in demand for community legal services brought about by individuals representing their interests in tenancy disputes personally.

   The cost of an informal tribunal is likely to be significantly less per case handled than cases dealt with by the courts but very little in the way of additional resources has been provided to the courts to deal with landlord and tenant matters and little reduction in staffing needs will result from removal of these matters from the courts. The courts will redirect their energies to reducing backlogs in civil litigation and criminal cases.

   In addition, the lower cost per case handled would be offset by the much greater volume of cases which would likely be directed to an informal tribunal.

The above analysis, under the heading "The structure for landlord and tenant dispute resolution," has been completed without considering the effect that the selection of a Rent Review option could have. For example, a decision to terminate Rent Review would deprive tenants of the informal forum that Rent Review hearings have provided for the airing of the concerns that they have regarding their rental premises. Such a decision could enhance the desirability of providing an informal tribunal such as described above for the resolution of these matters.

The attainment of housing goals

The first choice here involves a judgement as to the province's housing goals. In considering such a decision it is appropriate to review current efforts relative to needs and to consider an increased effort through the use of the five criteria that are being used to evaluate policy alternatives.

In the first section of this paper the performance of the rental housing sector over the past few years was analyzed. It was shown that private unsubsidized rental starts had fallen from about 33,600 in 1973 to about 3,200 starts estimated for 1977. Publicly-assisted starts have risen to offset, in part, the fall-off in unassisted production, with public starts in 1977 at an estimated 15,300 — almost 50 percent above the 1973 level. In 1977 almost 85 percent of rental production was publicly assisted. Despite these efforts, total rental starts have fallen from about 44,100 in 1973 to an estimated 18,500 for 1977.

This lies well below the annual production target of 26,000 to 27,000 implicit in the report of the Ontario Government's Special Program Review when combined with projections prepared for the Ministry of Housing. This situation could deteriorate further if the federal tax write-off of rental losses against other income is discontinued at the end of 1978.

From this it can be concluded that matters would be considerably worse in the rental sector were it not for the current level of effort by governments at all levels and that current results are falling somewhat short of desirable objectives.

It is also important to consider the position of those 20 to 30 percent of the population paying excessive proportions of their income on rent. The initial decision to implement Rent Review stemmed in large part from the problems faced by those with low incomes who spent over 25 or 30 percent of their incomes on rent. Any program involving changes to Rent Review should address the needs of this group.

In general, government policies that subsidize either demand or supply for rental housing are ways of attempting to reconcile the tenant's problem of affordability with the landlord's concern over financial viability to allow the production of an adequate supply of rental housing. By easing financial difficulties on both sides, there may also be some easing in other sources of tensions between landlords and tenants. Thus, such programs promote the achievement of four of the five evaluation criteria we have set out.

While such policies support four of the areas of concern, this is at the expense of a direct conflict with the fifth area — that of government financial restraint.

It has been made clear in the 1977 Ontario Budget, however, that the government has assigned a substantial priority to the need to limit government spending and to bring the budget into balance over the next few years. It is in this context, therefore, that any housing supply or demand initiatives are to be judged.

Housing policy also will have important inter-relationships with the decisions being made on Rent Review and the administration of The Landlord and Tenant Act.

The more severe rent controls are on landlords, the greater the need is for additional publicly assisted housing incentives. The more severe the rent controls policy, the lower the general level of rents will be. The lower the general level of rents, the greater the

cost-revenue imbalance facing the builder of new units, in that the rents on these units must be competitive with those of the existing market. The greater the cost-revenue imbalance, the lower the level of unassisted rental building and the larger the shortfall of rental starts below requirements, thus, the greater the need for publicly-assisted housing measures will be.

The relationship between housing policy and Landlord and Tenant Act matters stems from the fact that landlord-tenant tensions tend to be more strained whenever markets are tight and also when landlords are under financial pressure. Also a ready means of dealing with landlord-tenant disputes will provide a better climate for the encouragement of private rental investment.

Conclusions

It is clear from the foregoing that choosing overall approaches to Rent Review, a mechanism for the resolution of residential tenancy disputes and housing policy will not yield definite conclusions that will be universally acceptable. Nevertheless, by proceeding to outline the strengths and weaknesses of the various approaches, it is hoped that the basis has been established around which a broad consensus of opinion can be formed. The most important feature of such a consensus is the recognition by all parties to the debate of the need for a balanced consideration of the issues and policy concepts that have been discussed.

The previous chapter has presented some of the overall approaches that it is felt should be considered in looking at the continuing protection of tenants. After deciding the overall approach to take, the question of the specific policy options that are consistent with the approach arises. This chapter will consider these second level decisions in each of the policy areas: Rent Review, landlord and tenant relations and housing policy.

As the reader will note, the analysis in this chapter is not as detailed as that of the last. In part, this reflects the fact that the first level decision about this overall approach is by far the most important. For this reason it is expected that the focus of discussion will be on the overall approach to be taken in the various policy areas.

While the focus of attention will be on the overall approach to be taken, it is recognized that the second-level decisions related to each of the policy areas will also be of interest to landlords, tenants and the public at large. For this reason, this chapter will comment on some of the potential impacts of these policies.

Policies for Rent Review

Within each of the four overall approaches outlined in the last chapter there are a number of second level options that may be taken. These will be discussed under the first level decision to which they relate.

In order to assist the reader in following which overall approach the second level options apply to, Chart 6-1 has been prepared. It lists each of the second level options that will be discussed beneath the overall approach under which it is considered.

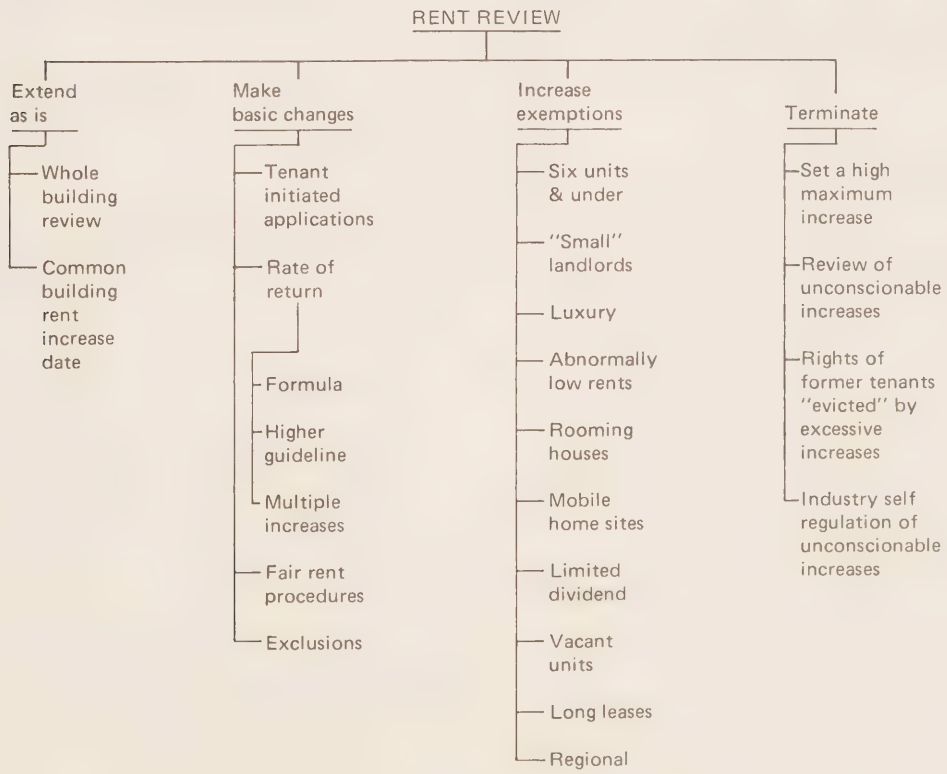
Continuing Rent Review as is

Continuing Rent Review basically as it is means that any changes to Rent Review should not be such as to alter to any significant degree the pass through of cost increases as the basis of determining allowable rent increases. As such, the scope for second-level changes is quite narrow. There are administrative changes and housekeeping amendments to the legislation which might be considered. However, this level of detail will not be discussed in this paper.

A second-level change that is of importance under this approach is that of amending the basis of the legislation from one of a unit orientation to one of a building orientation. At present, either tenant or landlord may apply for Rent Review on a single unit. Landlords may also apply for many or all of the units in a building. In addition, the Rent Review Officer has the authority to order the landlord to apply for review of additional units within a building. Rent increases are determined by reviewing the whole building's costs and revenues and the allowed rates of increase are applied to each unit under review, adjusted for varying lease lengths and (in the initial reviews) after considering increases taken after January 1 of 1974.

One proposal that has been made is to change the basis of the legislation to one in which the landlord would receive an award that would state the total amount of

Chart 6-1
Specific policies for Rent Review



increase in rent revenue that could be collected but to leave to the landlord the right to distribute, within certain constraining guidelines, such an allowable increase to the individual units in the building. This is often proposed as a way of allowing for the correction of anomalies in rent structures within a building under rent controls.

While permitting landlords to distribute allowable increases among the units under review might serve to correct anomalies, care may have to be taken to avoid its abuse. If such a power were given to the landlord without restrictions, it might be exercised to load increases on certain tenants in order to gain their eviction or in retaliation for taking their units to Rent Review or enforcing their rights under The Landlord and Tenant Act.

Several methods of limitation are possible:

- a limit could be placed on the amount by which any unit's rent could be increased above or below the rate of increase determined by review;
- the distribution of increases that the landlord proposes in a building's rent structure could be made subject to further approval by the Rent Review Officer;
- the distribution of increases could be made subject to the approval of a specified majority of tenants in the project.

Another reform that has been proposed is to have all rents in a building increase as of a certain date irrespective of the leases involved. Presumably the first such increase would have to be adjusted so that as equitable a result as possible could be attained in the instances of, for example, those whose most recent increase was one month ago as opposed to those whose last increase was eleven months ago.

It should be noted that the proposals mentioned above could also be included in an overall approach to alter the program with basic changes or with increased exemptions. They would not greatly affect the objectives of these approaches and therefore can be considered simply on their merits as discussed immediately above.

Altering Rent Review, with basic changes aimed at relaxing controls

The overall approach of altering the program with basic changes that relax controls is consistent with both a strategy of phasing out controls as well as a strategy of making the continuation of controls less onerous. The difference between these two strategies is essentially a matter of degree and the specific policies reviewed in this chapter, therefore, can be looked at in the context of either, as the final objective.

Four general categories of policies in this area may be considered:

- a tenant-initiated application system;
- methods aimed at increasing the landlord's rate of return;
- a "fair rent" method of establishing rents; and
- the use of exclusions as a phase-out method.

Each of these possibilities will be considered below.

The *first* to be considered is the *tenant-initiated application system.* Under the current legislation, application for review can be initiated by either tenant or landlord. The landlord must make an application for any rent increase in excess of the guideline limit.

Under a tenant-initiated system, landlords and tenants could legally agree to any increase in rent. A tenant who did not wish to agree could apply for Rent Review.

The advantages of a tenant-initiated system are that it would:

- permit a return to market rents where tenants agree with landlords to higher increases;
- provide for review of unconscionable increases;

The disadvantage are:

- those who are uninformed of their rights or intimidated by their landlord may not be protected against excessive rent increases;
- while some landlords could return to market rents, others would still have to justify their rent increase, depending on whether their tenants applied.

The *second* basic change to the program is concerned with *ways of considering the landlord's rate of return.* There are several ways in which the rate of return of landlords could be considered under Rent Review. Changes to the legislation could:

- allow for a rate of return consideration in the rent determination;
- set a higher rent increase guideline and have increases at or below this guideline free from any applications to Rent Review, except where reductions in services are involved;
- permit rent increases more frequently than once a year.

The only rate of return consideration under current legislation stems from the consideration of financial loss which permits rent increases that tend to bring the

landlord to a break-even position. Other than this, the cost pass-through principle of Rent Review, in general, permits the same maximum amount of return to be potentially earned as was earned before controls were imposed. Accordingly, some landlords are locked into situations of little or no return, with no way of escape. Some provision could be made in the legislation that would permit landlords to work their way to a positive rate of return that would be in line with that available on other investments.

There are two complications that should be considered in introducing a provision for a rate of return. One is the traditional pattern of returns in the industry. As explained in Chapter I, rental buildings typically have negative cash flows during their first few years of operation and gradually move into a profit position. A flat minimum rate of return suddenly imposed on such a pattern will cause a large jump in returns on newer or recently-acquired buildings.

The second complication, which is related to the first, is that apparently modest rates of return can lead to fairly large increases in monthly rents in some cases. Both of these considerations argue for a phasing-in of rate of return increases, so that the market is allowed to adjust through a rising rate of return pattern.

A higher rent increase guideline, especially when combined with no Rent Review at or below this amount, would provide most landlords with an increasing margin of rent revenues over costs. If such a margin were large enough, market levels of rents would be phased in over time.

Permitting rent increases more frequently than once a year has been advocated, especially for situations where there is a turnover in tenants. In that this encourages higher rates of turnover, it is subject to the same types of problems as inherent in vacancy exemptions which are discussed below.

The *third* basic change to be considered is the *use of a "fair rent" procedure for establishing rents.* There are two variants under this approach. The first converts the existing procedure for establishing rents into a search for "fair rents". The second requires only that the landlord establish that rents are not out of line with rents on similar accommodation.

The advantage to the first of these approaches is that it may be viewed as a method of removing distortions in relative rents. A disadvantage is that "fair rent" depends on many factors: the location of buildings; the age of the building; the quality of the building; the location of a unit within the building; the condition of the unit; etc. Thus, a "fair rent" is difficult to establish and there will be arbitrary decisions.

The second approach does not attempt to establish a "fair rent" on all units, but merely aims at avoiding excessive rents above prevailing levels. Its advantage is that it provides a limited test to avoid unconscionable rent increases. It may also be thought of as a full termination option. The disadvantages include the fact that there are comparability problems similar to those under the first fair rent method and it could result in landlords pricing up to the maximum acceptable levels.

The *fourth* basic change that can be considered in altering the program is the *use of exclusion as a phase-out method.* As noted below, both the exemption of units upon vacancy and luxury exemptions could be used to phase out Rent Review.

Increasing exemptions from Rent Review
Such an approach has justification in cases where a strong argument can be made either on the basis of some appeal to fairness, or because of the special consequences of control on new supply or on the maintenance of existing rental stock. Some of the arguments that have a bearing on such special treatment are set out below.

For *buildings or projects of six units or less,* the arguments for exclusion are:

- owners of smaller projects are much less likely to go to Rent Review both because of limited knowledge of the process and because the costs and time involved in applying may outweigh the possible benefits. Thus, a fair number of such landlords will be held to the maximum permitted increase in rent without review despite higher costs;

- small projects, especially those of three units or less, may readily be converted into non-rental uses, thereby decreasing rental stock;

- small buildings are frequently owned by landlords of few units and with low incomes.

The argument against exclusion is:

- some of the older, small buildings house those who are in the most need of protection from rent increases.

For *projects owned by "small" landlords,* (this differs from the above class of exemptions in that the former takes into account that a landlord could own many small buildings), the arguments for exclusion are similar to those listed above.

The arguments against exclusion, however, are as follows:

- there are administrative difficulties involved in verifying "small" landlord status;

- such exemptions would treat tenants differently, depending on who their landlord happened to be;

- it would leave open the possibility of sales of rental buildings for the purpose of exempting the building from controls. Problems associated in verifying arm's length transactions, questions of financial arrangements on mortgages taken back by vendors, etc., would present difficulties.

For *luxury units* the arguments for exclusion are:

- at the high rent end of the market, tenants can protect themselves by moving into ownership units or by moving into less expensive rental buildings;
- such tenants seldom have an affordability problem and if they do, it stems from unusually large expenditures on rent rather than from low incomes;
- high rent exemption could be used as a means of phasing out controls as the general level of rents rise.

The argument against exclusion is:

- some would argue that a redistribution of income from landlords to tenants may be justified, regardless of their income levels.

For *units with abnormally low rents,* the argument for exclusion is:

- abnormally low rents, (e.g. below $100/mo.), often reflect special situations such as rent for family members, rent related to certain individuals the landlord wishes to assist, or rent that is low because of services provided to landlords. In such cases provision might be made for an adjustment of rent to more normal levels.

The arguments against exclusion are:

- such low rentals will occasionally represent payment for the poorest housing;
- on many low rent housing units, the financial loss consideration of Rent Review provides for substantial adjustment in rent.

For *rooming houses,* the arguments for exclusion are:

- rooming houses often house a substantial transient population. Further, it is often difficult to determine if the relationship is actually one of landlord and tenant rather than licensor and licensee;
- rooming houses are easily converted to other uses and, indeed, even before Rent Review were being so converted at a substantial pace in Toronto.

The arguments against exclusion are:

- some roomers live in the same unit for substantial periods of time;
- roomers as a group are at the lower end of the income scale.

For *mobile home sites,* the argument for exclusion is:

- many of the tenants of these sites are transients in nature.

The arguments against exclusion are:

- it is contrary to the purpose of including these homes in The Landlord and Tenant Act, that is to regularize their treatment by putting them on the same basis as other rented housing;
- mobile home owners tend to be of low to moderate incomes.

For *privately held limited dividend buildings,* the argument for exclusion is:

- rents on such units are subject to the control of Central Mortgage and Housing Corporation.

The argument against exclusion is:

- the basis of C.M.H C. control of such rents may not be consistent with the objectives of the provincial rent controls.

For the *exemption of units upon vacancy,* the arguments for exclusion are:

- it serves as a method of returning, over time, to market rent;
- it safeguards existing tenants for as long as they remain in the same unit.

The arguments against exclusion are:

- it provides an incentive to landlords to turn over existing tenants;
- the mobility of tenants is reduced;
- it leads to large differences in rents between old and new tenants.

For the exemption of *units subject to long leases,* (without escalation clauses) the arguments for exclusion are:

- it is difficult to deal with future and projected costs adequately over the long term so as to set a fair rent;
- control of units with long-term leases prejudices their formation and thereby restrains the legitimate expectations of some landlords and tenants.

The arguments against exclusion are:

- landlords should not be able to avoid Rent Review by using long-term leases;
- rents established for units with long-term leases may affect the rents ordered for other tenants.

There is a further option of *regional exemptions.* This would provide for exemption of municipalities based on their size, their market conditions, the volume of Rent Review applications, or upon request. This option

could alternatively be stated in terms of including only those areas that were of a certain size, had certain market conditions, have a large volume of Rent Review applications, or requested such controls. The argument for such exclusion is:

- housing markets differ from area to area in the province. Regional exemptions would enable areas where controls were no longer appropriate to be released to the free market.

The arguments against such exclusions are:

- the pattern of control and decontrol might appear unfair to landlords operating in several municipalities or to tenants moving between municipalities;

- if the conditions of exemption were reversible, uncertainty would exist in landlords' minds, which would result in continued lack of investment confidence.

Terminating Rent Review
Should a decision be made for full termination of the Rent Review Program, there is the question of whether or not such a termination would leave anything behind, other than the current legislative provisions that continue to enforce orders made under the Act and ensure that the next rent increase on a unit will not occur until twelve months after the previous increase.

In order for there to be a true full termination of controls of rent, any residual powers must provide for eventual full and free adjustment to market levels of rent. Within this objective, however, there could be consideration given to a provision to protect tenants from unconscionable rent increases.

One of the chief problems that faces any attempt to control such increases is the need for distinguish unconscionable increases from other large rent increases. Some large increases may be sought by landlords to restore an appropriate return or to offset large and unavoidable increases in costs and, as such, they should not be considered as unconscionable and unwarranted. Other large increases may be determined unconscionable because the proposed rent level is excessive and predicated upon a tenant's physical infirmity, ignorance, illiteracy or similar factors.

Several ways exist to regulate unconscionable increases and to distinguish them from other rent increases:

- a maximum rate of increase could be set for any increases taken after controls are lifted. Such a limit would have to be set high enough so as to not interfere unduly with adjustment to market levels of rent;

- the landlord could be required to establish that his or her rents are in line with rents on similar accommodation when an increase was questioned as being unconscionable;

- the use of an excessive rent increase as a means of eviction might be limited by a requirement that the unit would have to be rented to a subsequent tenant at close to the same rent as demanded of the former tenant (unless an unreasonable period of vacancy occurs) and that the former tenant have a right to a punitive award up to the difference between the rent demanded of him or her and that charged the subsequent tenant;

- a self-regulating industry tribunal could be established to hear such cases with the power to order roll-backs where unconscionable increases were determined.

In any discussion of such policies, it should be remembered that they are conditional on the acceptance of the overall approach of full termination. If one rejects full termination as the overall approach, it is certain that these specific policy options will also be felt to be less desirable than others not involving full termination. But if full termination is selected, then one or a modification of one of these specific policies might be found mutually acceptable to landlords and tenants as the best way to avoid the recurrence of the type of rent increases that played a large part in the initial decision to introduce rent controls.

Policies regarding landlord and tenant relations
There are some second-level decisions which could be made whether or not a change is made in the structure to deal with the resolution of tenancy disputes. Other second-level decisions may be made if a change is made in the administrative structure for dispute resolution. Issues, the resolution of which may be made irrespective of the dispute resolution mechanism, will first be considered and these will be followed by issues relevant when a board or tribunal is given jurisdiction to adjudicate disputes. Chart 6-2 lists each of the second-level options that will be discussed beneath the overall approach to which it applies.

Policies that are independent of structure
There are two questions that immediately arise when considering specific policies.

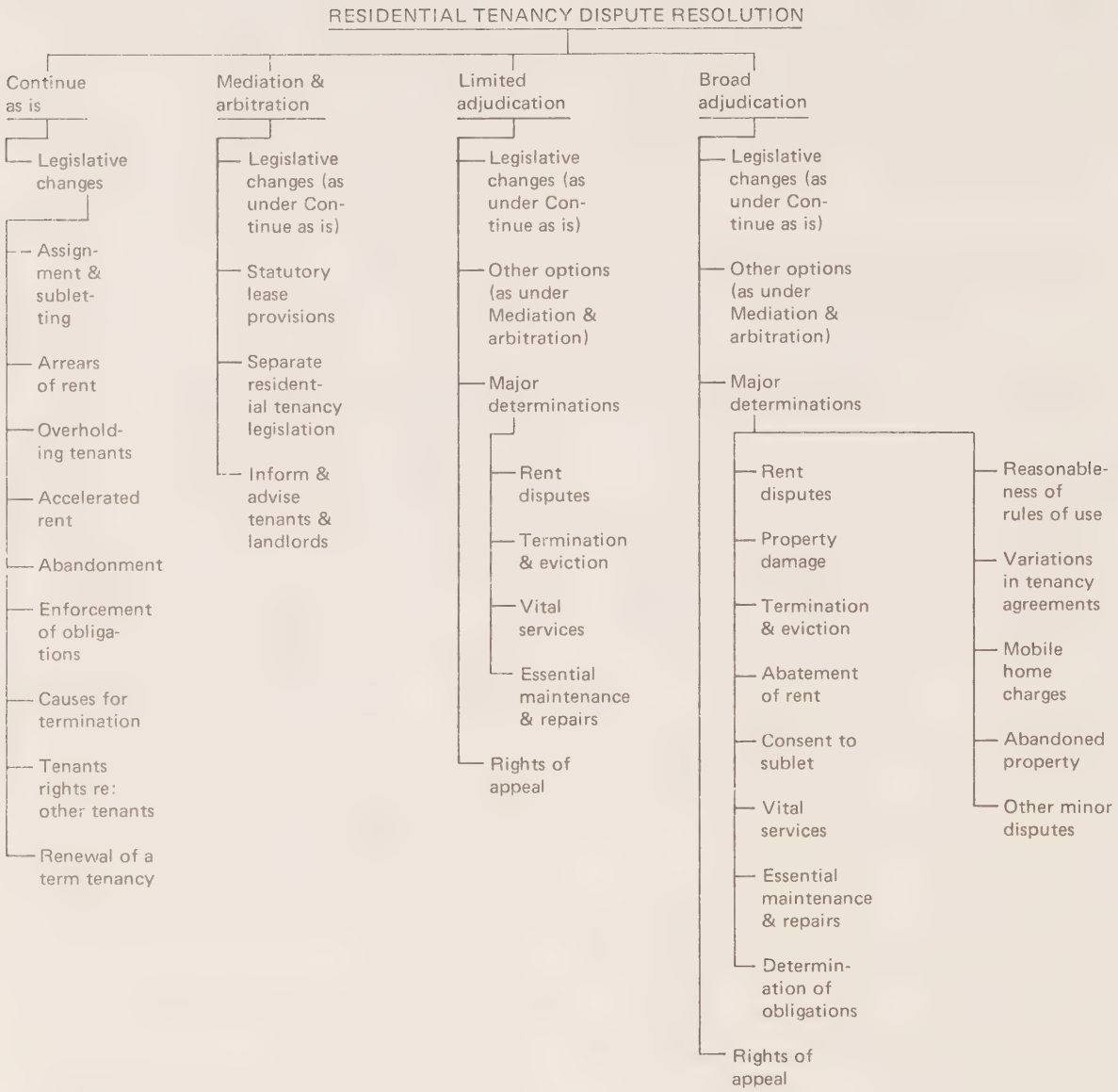
- should there be statutory provisions (or a compulsory standard form) for residential tenancy agreements?

- should separate residential tenancy legislation be enacted which attempts to codify residential tenancy law?

These questions may be answered affirmatively even if the courts continue to adjudicate tenancy disputes. If a board or tribunal is given arbitration or adjudication functions, compulsory provisions in tenancy agreements and a separate residential tenancy statute would simplify the interpretative task of the tribunal.

In addition to these questions, there are eight policy areas that could be considered whether or not a change is made in the administration of the residential aspects

Chart 6-2
Specific policies for landlord and tenant relations



of The Landlord and Tenant Act. These are listed on Chart 6-2 under the "Continue as is" approach to residential tenancy dispute resolution and are discussed as follows.

First, with respect to *assignment and subletting,* provision regarding subletting and assignment of residential tenancies could be made to ensure that:

- landlords do not have in their rented premises assignees or sub-tenants with security of tenure (tenants of the persons to whom they rented the premises), who have not been approved by them, unless the tenancy agreement specifically so provides; and
- tenants who have "transferred" their tenancies do not remain liable to their landlord for extended periods after they have lawfully left possession.

At present, unless a tenancy agreement specifically provides that the landlord has the right to consent to an assignment or subletting, the tenant may freely assign or sublet without consent. Where the agreement requires consent, the landlord cannot arbitrarily or unreasonably withold it. This provision was appropriate when a landlord did not require cause in order to terminate. At the end of the term or the period of tenancy, the landlord either entered into agreement with the person in occupation or terminated the occupancy.

The current law regarding assignments and sub-tenancies creates significant problems for landlords, tenants and sub-tenants. Even though the tenant has assigned the tenancy to another person, the tenant remains liable to the landlord for rent and damages. Since the Act provides for a fixed-term tenancy to continue from month to month after the expiration of the term where no new agreement is entered, the tenant who has assigned could be liable to the landlord for extended periods. The position of the person in occupancy is not clear. It would seem that the landlord terminating the tenancy should give notice to the original tenant. The landlord's agreement is with the tenant, not with the occupant, although landlords have rights against the occupant as well. Such issues could be settled by statutory changes.

If security of tenure is to remain effective, new rules regarding the position of the parties in relation to assignment and subletting seem desirable.

Second, with respect to *arrears of rent,* the grace periods and procedure for forgiving the late payment of rent under the Act could be curtailed.

Under the existing Act, if a landlord seeks to terminate the tenancy for failure by the tenant to pay rent, the following rules apply:

- the landlord must give notice of termination, in appropriate form, of the tenant's failure to pay rent and specify a date for termination not less than 20 days after notice is given;
- the landlord must then wait 14 days during which the tenant has the right to pay the rent and invalidate the notice;
- if the rent is not paid, the landlord is entitled to apply to the court. The landlord must serve the application on the tenant, giving at least four days' notice of the appointment before the county court clerk. As the clerks of the court in the urban areas are overburdened with applications, appointments often cannot be made for several weeks;
- the tenant need only appear in person before the clerk on the appointed date to dispute orally the termination for the matter to be put over to the county judge. The tenant may also file a written dispute;
- if the tenant, at any time prior to the judgement becoming final, pays into court the arrears and the costs of the application to the court, the proceedings end;
- even when the judgement is obtained, if the tenant has not left voluntarily the landlord must wait, usually several weeks, before the sheriff's office has time to perform the eviction.

The landlord, who may have a judgement for both the arrears of rent and compensation for the period the tenant has been over-holding, is often faced with an impecunious tenant and must wait for payment or abandon all hope of recovery.

For the small landlord faced with burdensome mortgage payments, such non-payment can be financially disastrous. The cost of keeping a non-paying tenant in possession is high for all landlords and is ultimately passed on to the paying tenants. Thus, the burden of those who cannot, or will not, pay rent is borne by landlords and paying tenants. It would appear inequitable that they should support this burden. A simplified more expeditious procedure for dealing with rent arrears and evictions appears desirable.

Third, with respect to *over-holding tenants,* provision could be made to make a tenant, who wrongfully stays in possession after proper termination, liable for any damages a landlord may sustain as a result of the landlord not being able to give vacant possession to a new tenant.

Currently, where a landlord has entered into a tenancy agreement with a new tenant, the landlord is liable to the new tenant for the damages sustained by not being able to provide the premises, even though this is the result of a tenant wrongfully over-holding. The landlord should be able to seek indemnity from the over-holding tenant.

Fourth, provision could be made to abolish *accelerated rent* and any other clauses in residential tenancy agreements stipulating that a specific sum shall become due and payable upon a tenant's breach of any term, rule or regulation in the tenancy agreement.

An accelerated rent provision of a tenancy agreement is one that states that if the tenant breaches an obligation, all or part of the rent for the balance of the term shall immediately become payable at the landlord's option. Other types of provisions state that if the tenant breaches an obligation, a certain sum becomes due and payable.

The Ontario Law Reform Commission, in its 1976 Report on Landlord and Tenant Law, recommended that such provisions in residential tenancy agreements be void and unenforceable. The present Act contains provisions to relieve a tenant of accelerated rent but does not abolish it. The Act also contains provisions to relieve penalty clauses in tenancy agreements.

Fifth, with respect to *abandonment,* it is not uncommon for tenants to leave behind personal property when they have abandoned rental premises in breach of the tenancy agreement or where they have gone out of possession upon termination of the tenancy. Some of this property is valuable and the absence of statutory guidance regarding the disposition of abandoned personal property has resulted in considerable inconvenience to landlords of small and large residential premises.

In jurisdictions where there is a Residential Tenancy Tribunal, provisions have been enacted to permit the tribunal to supervise disposition. The Ontario Law Reform Commission has recommended the enactment of provisions which would ensure the proper disposition of this property where a board or tribunal does not exist.

Sixth, with respect to *enforcement of obligations* under a tenancy agreement, provision could be made for enforcement of some obligations by order of a court or tribunal. There is currently no easily accessible method for enforcing many obligations arising under a tenancy agreement. Frequently breach of these obligations will give rise to a statutory cause for termination. However, where breach does not give rise to a cause for terminating, the remedy is to proceed before the courts for an injunction or damages involving the parties in considerable expense.

It would seem reasonable to allow a summary method of enforcement of some obligations, however, there may be some difficulty in allowing this. While landlords should be free within limits to establish rules, the protection of tenant interests requires that the rules be reasonable in the circumstances. What is unreasonable in a subdivided house, co-occupied by the landlord, may be quite reasonable in an apartment complex. The legislation could contain a guideline for determining which obligations were reasonable.

Where a tenant did not fulfill reasonable obligations, the landlord could be permitted to apply to a court or board for an order which the tenant would be directed to observe. Failure to observe the order would be cause for termination. It should be noted that where a landlord does not perform his or her obligations, The Landlord and Tenant Act now permits the tenant to apply for an abatement of rent.

While a procedure for enforcing tenancy obligations could be employed if a court adjudicated, it may be more compatible in some instances to have adjudication by a board or tribunal.

Seventh, with respect to *causes for termination,* there are three additional statutory causes for a landlord to terminate a tenancy, that could be made:

- where the tenant has failed to comply with an order or direction of a court (or tribunal) respecting occupation of the residential premises;
- where the landlord of premises containing no more than three rental units has entered an agreement of sale for the property in good faith and pursuant to the contractual obligations is required to deliver to the purchaser vacant possession;
- where the residential premises must be vacated in order to comply with an order by a provincial or municipal authority respecting health, safety, building or fire prevention standards.

As noted under the sixth area above, the first of these would permit termination where there was failure to obey an order of the court or board with respect to fulfilling the obligations of a tenancy. Such a termination could take place during the term or period of a tenancy.

The second provision would be effective only at the end of the term or period of a tenancy as in the case of the existing provision for termination for use by a member of the landlord's immediate family. To ensure that this provision and the "family use" provision are not abused, tenants wrongfully evicted could be given a right to damages, including the cost of any move and some or all of any additional rent that they were required to pay for a period up to 12 months.

As suggested in the third provision, if the building cannot be repaired, is unsafe and compliance with appropriate standards requires that the premises be vacated, termination should be allowed.

Eighth, with respect to *rights of tenants against other tenants,* the Ontario Law Reform Commission, in its 1976 Report on Landlord and Tenant Law, recommended the establishment of rights of tenants against disruptive fellow tenants.

A small minority of landlords take little or no care to protect their responsible tenants from disruptive tenants. In these circumstances the tenants should not be powerless to act in their own interests.

It should be noted that the commission recommends against the establishment of the right of a tenant to have the tenancy of another tenant terminated. While the right to claim termination could lead to serious abuse in the commercial context, such a remedy of termination, at least with the consent of the landlord, is not out of place for residential tenancies.

Ninth, with respect to the *renewal of a term tenancy* landlords and tenants could be given the right to demand a renewal of the tenancy. Tenancies for a fixed period of time (fixed term), such as six months or one year, no longer simply expire requiring the tenant to move out at the end of the term. The Act currently provides that the agreement is renewed as a month-to-month tenancy until both parties agree to another term.

Landlords complain that this provision does not provide them with secure tenancies. Tenants refuse to sign further term tenancies on the expiration of a term and may terminate on sixty days' notice leaving the landlord with the problems of re-renting. In areas with high vacancy rates this may be a considerable problem.

Policies that depend on the establishment of a residential tenancy board or tribunal

If a residential tenancy board or tribunal is established and given adjudicative functions, the extent of its authority must be determined and clearly established in the statute. The determination of some rights related to tenancies would necessarily remain in the courts (for example, damages for negligently causing injury in a rented premises) and it would appear desirable to limit the jurisdiction of a board or tribunal to matters closely connected to disputes over the premises.

A list of some of the *major* adjudicative and administrative *determinations,* some or all of which could be performed by a tribunal, is set out below. (Some func-

tions of such a tribunal have been discussed in greater detail in Chapter IV of this paper.) The extent to which these functions would be performed by a tribunal with the various powers of dispute resolution discussed in Chapter V, is shown on Chart 6-2. The functions are:

- determination of *disputes over rent* including rent arrears to a maximum of $1,000 (where the tenant is in possession at the time application is brought), rent deposits and unconscionable rent increases;
- determination of *property damage* to rented premises to a maximum of $1,000, where the tenant is in possession at the time the application is brought;
- determination of whether there is reasonable cause for the *termination* of a tenancy *and* the making of *eviction* orders. Authority to determine that a notice has been given without reasonable cause and to notify potentially affected tenants;
- determination of whether an *abatement of rent* is warranted and the ordering of an abatement of rent;
- determination of whether the withholding of *consent to* assign or *sublet* by a landlord, is reasonable and whether the charge for assignment or sub-letting is reasonable;
- determination of whether reasonable supply of any *vital service* such as heat, fuel, electricity, gas or water has been witheld. Power to direct a utility to restore service and to order a tenant to pay the rent or part of the rent into a trust fund and to make payment to compensate the utility;
- power to make orders respecting *essential maintenance and repairs* by landlord and tenant. This could include the power to make an order recognizing the validity of crucial repairs made by a tenant and to direct the landlord to pay for such repairs; the power, where a landlord fails to make the ordered repairs, to direct the tenant to pay the rent, or part of the rent, into a trust fund to cover the cost of such repairs;
- determination of whether a *landlord* has so breached his *obligations* that the tenancy is terminated;
- authority to determine whether a *tenant's obligation* under a tenancy agreement is reasonable and to make an order of eviction for failure to comply or to order that an unreasonable clause in a tenancy agreement is void;
- authority, where a landlord and tenant do not agree to changes in the *rules governing the use* of accommodation, to determine whether the rules are reasonable and, if so, to approve them and make them part of the agreement;
- authority to permit a *variation in a tenancy agreement* and any consequential physical alteration of rented premises, where the purpose is to reduce the consumption of energy. Where the landlord and tenant do not agree on the rental changes, authority to determine a new rent to reflect the change in circumstances (e.g. a conversion from bulk metering of electricity to individual unit meterings);
- authority to determine in a *mobile home park* whether a *charge* has been made in excess of reasonable expenses in respect of entry, exit, installation, removal or granting of a tenancy and where such a charge has been made, to order the landlord to return the excessive charge to the tenant;
- authority to deal with *abandoned personal property* that has been left behind when a tenant has moved out; and
- authority to settle *other minor disputes* such as improper changing of locks, withdrawal of services, visitor privileges and the keeping of pets.

In addition to these functions a residential tenancy board or tribunal could have authority to:

- receive and investigate complaints of conduct in contravention of legislation governing residential tenancies and, where appropriate, to assist parties who prosecute offences under the Act;
- disseminate information for the purpose of educating and advising the public concerning rental practices, rights, obligations and remedies;
- advise landlords and tenants in residential tenancy matters and assist them to make application for remedies and to mediate disputes.

There is also the question of whether such functions should be phased in over a period of time or whether they should all begin on a particular date. While the commencement of all functions on a single date would make the situation clear for the public, it might cause difficulties for such a board or tribunal during its early stages.

There is also the matter of rights of appeal from such a tribunal. Rights of appeal may be internal, that is, an appeal from one official or level of the organization to another, or to the court. Appeal to the courts could be on any matter in dispute or could be limited to matters of law and jurisdiction, as they are under the British Columbia Residential Tenancy Act.

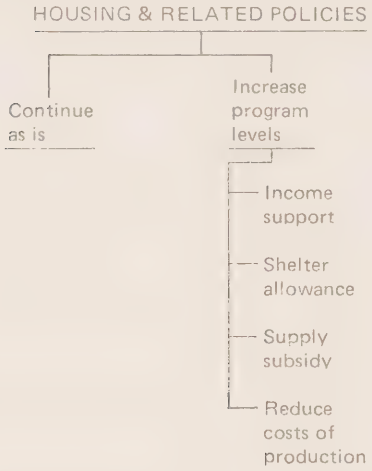
Housing and related policies

Since the range of potential specific housing and related policies is large, the discussion here will focus on groups of policies. It should be noted that government is already active in the use of the policies to be discussed. The basic questions, therefore, relate to the policy mix, funding levels and method of program delivery.

Chapter V has discussed the overall funding of publicly-assisted rental housing. As was indicated in that chapter, a major drawback to enriching these policies stems from the increased and continuing government financial commitments which would be involved. This section will consider the alternative approaches that might be used given an increase in funds committed to public programs related to rental housing. In essence, these policies relate to the resolution of the affordability issue that played a central role in bringing about Rent Review legislation.

As indicated on Chart 6-3, four basic strategies for dealing with rental housing will be discussed. These strategies include two demand side and two supply side approaches. On the demand side there are revisions to income support legislation and a rental allowance which is an extension to the basic concept currently in the rent supplement program. On the supply side there are subsidies to builders and measures to lower building or land costs.

Chart 6-3
Specific policies for housing & related policies



In consideration revisions to *income support* legislation, one approach is to treat affordability problems as an income problem and deal with them by means of general or categorical income transfers. Financial assistance under this approach would be related to income levels and not to expenditures for housing and expenditure choices of recipients need not be restricted. The advantages to this approach are that it can:

- provide an opportunity to allocate expenditures in accord with the recipient's needs and priorities;
- be designed to permit universal access to benefits conditional only on low income status; and
- replace complex administrative structures for delivery of other transfers it supplants.

The disadvantages of this approach are that it:

- would be relatively expensive as a means of solving housing affordability problems in that general income transfers would be used for other needs as well as housing;
- might not be adequate in high housing cost areas;
- would be inflationary if it results in a large increase in the level of government expenditures.

A comprehensive income support policy would probably be adopted only as a result of a joint federal/provincial agreement given the financial and other implications involved. Such an agreement was attempted as part of the income security review. Given the difficulties in reaching an agreement in this federal/provincial policy review, costing and evaluation of this option has not been attempted.

The extension of the concept of rent supplement to a *shelter allowance* involves an income transfer that is targeted to housing affordability. As such, payments under such a program depend both on the income of recipients and on the level of housing expenditures. The advantages of this approach are that it:

- is directly targeted to the rental housing affordability problem;
- can allow for variation in levels of transfer in accordance with regional housing cost differences;
- has minimum involvement in the private housing market.

The disadvantages of this approach are that:

- it restricts the expenditure choice of recipients so that the amount transferred is worth less to them than an equal amount of cash transfer to which no conditions are attached;
- transfer to those with low incomes would do little to stimulate rental building. Even with a rental allowance, the poor could not afford new housing given current high costs. Such transfers do, however, lead to higher housing standards by improving the housing purchasing power of the poor;
- given a lack of production response, rental allowances could lead to a bidding-up of rents, especially in the absence of rent controls.

Whereas Rent Review can moderate large rent increases for rich and poor, a rental allowance avoids the burden of high rent payments in relation to income for those of low income. Thus, under Rent Review, the affluent may be protected and the poor not helped, if the former had a low rent but a large increase while the latter had a high rent but low increase. It follows that a rental allowance would be a superior alternative if the objective was to relieve affordability problems of those with low incomes.

Should a rental allowance approach be adopted, a scheme similar to that now in use for the elderly in British Columbia could be considered. In this case assistance would be related to both the income of the recipient and housing expenditure. Housing expenditure would be reduced toward 30 percent of income. Expen-

diture would be restricted both by a maximum limit and by a requirement that 25 percent of the excess expenditure over 30 percent of income be borne by the tenant. Duplication of subsidies could be eliminated by offsetting Ontario tax credits against the rental allowance.

An order of magnitude annual cost estimate, assuming 100 percent take-up, would be $20 million for eligible senior citizens and $30 million for eligible families with children. Such a program would cover about 55,000 senior households and 45,000 families with children. It should be noted that such costs might be offset by reductions in other related programs.

Subsidies to builders can take forms such as interest subsidies, grants and tax incentives. Such programs can also be aimed at owners of new rental housing. Their advantages are that:

- they directly provide for new rental housing;
- they can tie assistance to the rent levels to be charged for the units;
- the increased housing stock provided may help to keep rents, in general, at lower levels.

Their disadvantages are that:

- there are high per unit subsidies needed, given the current cost-revenue imbalance;
- direct benefits of lower rents on these units go to those with higher than average incomes in that units with current assistance levels will still rent for over $300 a month.

In considering a builder subsidy program it should be realized that an additional 5,000 units over current levels of commitments under the Assisted Rental Program/ Ontario Rental Construction Grant, would involve a maximum potential value of assistance equivalent to a capital sum of $38.6 million, $16.0 million of which would be provincial funds. The cumulative impact of such a program over a number of years would be substantial. However, it should also be noted that rent on such units would be in excess of $300 a month even with the subsidy provided.

Building or land costs could be substantially reduced by:

- cutting delay in approving land for development;
- reducing servicing standards for residential development;
- overcoming municipal resistance to higher density development;
- increasing the supply and availability of serviced land in cases where this is found to be necessary.

The advantages to these measures are that:

- substantial cost savings are possible;
- they would permit a larger volume of development, especially of rental stock and inexpensive ownership housing;
- they may not require extensive provincial expenditures.

The primary disadvantage is that they may require a lessening of municipal autonomy where local policy frustrates overall provincial and regional requirements.

These four policies are not mutually exclusive so that various combinations can be considered. Also, housing policies can be reviewed within the constraint of existing financial commitments, in addition to considering each of them in the context of increased expenditures.

There is the additional alternative of the government undertaking directly financed construction (such as in public housing) as a means of increasing supply. Such an option would substantially increase the cash requirements of governments as an additional 5000 units would involve a capital cost of approximately $150 million plus a continuing operating subsidy. In addition, it is not clear that the quality of government-owned housing is inherently superior to that produced by the private sector.

The degree to which these policies are employed is dependent on the decision as to the future of Rent Review and to a lesser extent on changes to residential tenancy law and the mechanism for resolving tenancy disputes.

Chapter VII — Some policy combinations

In the previous two chapters an analysis has been presented of both the overall approach that can be taken and the specific options which may be adopted in each of three policy areas: Rent Review, landlord and tenant matters, and housing and related policy.

In this chapter, an attempt is made to show how the diverse issues discussed earlier may be put together into a package of policies. The examples here in no way exhaust the potential combinations that are worthy of consideration. Nor do they attempt to evaluate the merits of the particular policy package they outline. Rather, they are presented for the purpose of illustration and to assist in focusing subsequent discussion.

Chart 7-1 summarizes the overall approaches within each of the three policy areas with which this paper has dealt and lists beneath these the major policy options that have been discussed under each approach. This chart is presented to assist the reader in remembering how the various options included in the examples which follow relate to other options which have been put forward in the paper.

Example #1
This example selects policy options from each of the three main areas and involves:

- altering Rent Review to permit the program to go into a decontrol phase, and
- combining its administration with that of a board or tribunal with authority to adjudicate some other residential tenancy matters, and
- implementing a rental housing allowance, for eligible families with children and senior citizens, to reduce the cost of rental housing.

Under this example the guideline limit governing the maximum permitted increase in rent without Rent Review would be eliminated and tenant-initiated applications would be required before a rent increase was reviewed.

Legislation governing this could be incorporated into a new Act which would also include the legislation establishing and governing the board or tribunal with authority over other residential tenancy matters. The tribunal might be self-funded in part or in total.

Such a tribunal could be given the authority to mediate a rent level or other tenancy dispute with the power to ultimately adjudicate the matter if mediation fails. If the matter was a rent level that was to be adjudicated, the basis for the adjudication could be similar to current Rent Review legislation but with some consideration for the landlord's rate of return.

Tribunal orders regarding rents could be tied to the residential tenancy rather than the rental unit to permit possible rent changes upon a change of tenancies. New tenants would not have the right to apply for review of the initially accepted rent. However, future rent increases could be subject to review depending upon the determined duration of the decontrol phase. Also certain exemptions, such as luxury units, could be made as a further means of decontrol.

The sections of the legislation regulating rents could be made self-repealing from a specific date except for a provision to protect tenants from unconscionable rent increases.

The tribunal could have jurisdiction over security of tenure problems, and evictions. It could have the power to make orders respecting vital services and essential maintenance and repairs, including the authority to direct the tenant to pay rent into a trust fund until specific repairs are completed.

The provision of a housing allowance would serve to protect eligible families with children and senior citizens from paying excessive proportions of their income on rent. This would reduce substantially the impact of a return to market rents for those in most need and would also improve the position of those paying a large share of their income on rent under the Rent Review decontrol program.

Example #2
This example selects policy options from the three main areas as follows:

- terminate Rent Review except for control over unconscionable rent increases, and
- establish a board or tribunal with broad adjudication powers to resolve residential tenancy disputes, and
- implement a rental housing allowance.

Whether Rent Review passes through a decontrol phase or is directly terminated, there could be a continuing need for some residual control to protect tenants from unconscionable rent increases. Such a provision could require the posting of rent schedules in building lobbies and could establish the mechanism for adjudicating disputes over these increases.

In addition to the areas of jurisdiction listed under Example 1 for a tribunal with authority to resolve residential tenancy disputes, the tribunal in this example could have authority over the complete range of matters arising under the residential aspects of The Landlord and Tenant Act that have been discussed in Chapter VI of this paper. There could be an internal right of appeal from the initial decisions of such a tribunal as well as a subsequent right of appeal to the courts in appropriate cases.

The implementation of a rental allowance program could provide protection to low income tenants after the termination of the Rent Review Program.

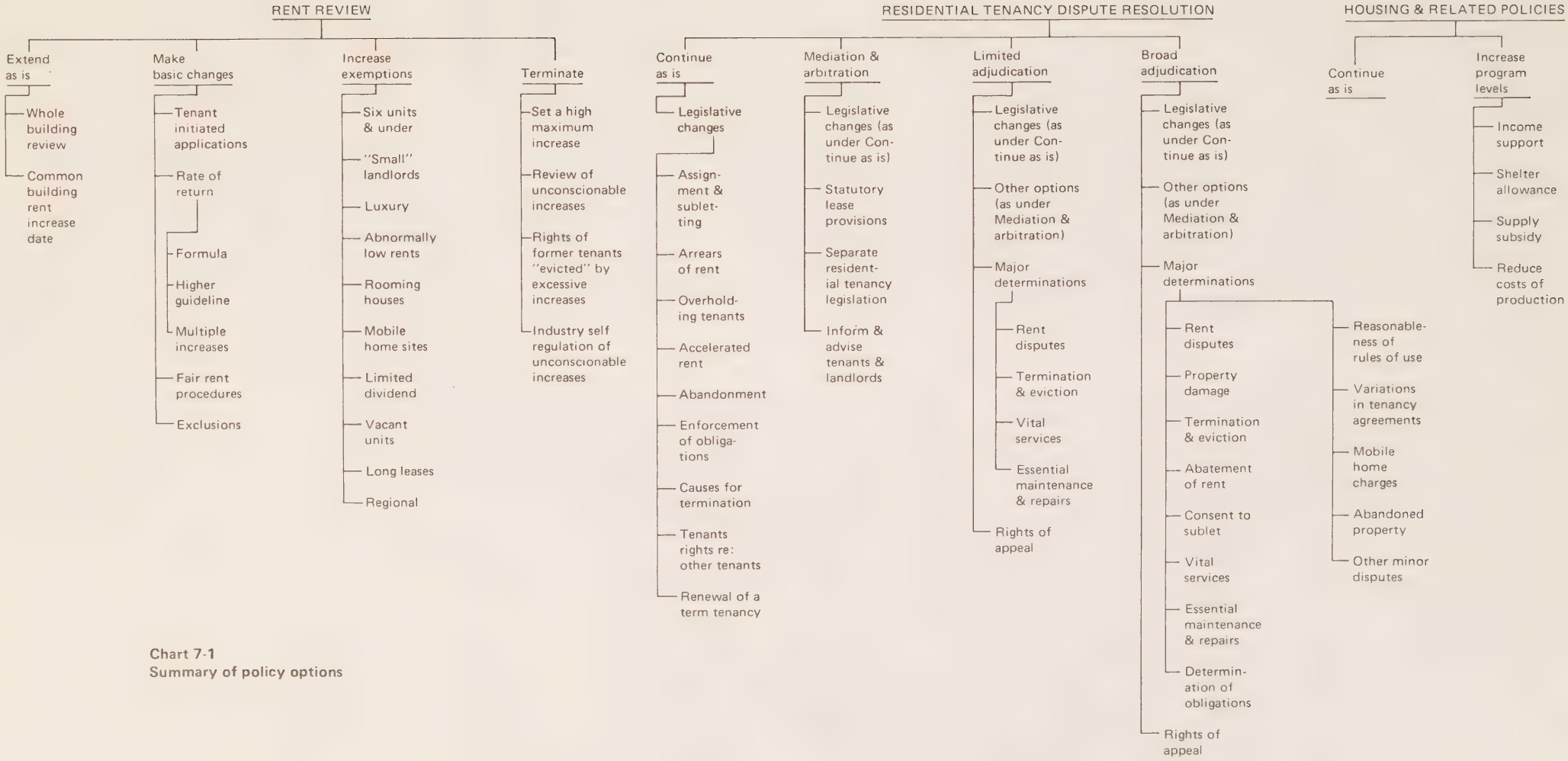


Chart 7-1
Summary of policy options

Example #3
Under this example the policy options selected are:

- establish Rent Review as a continuing program;
- continue the resolution of landlord and tenant matters in the courts but make certain legislative changes;
- increase and continue subsidies to stimulate the production of rental accommodation.

A continuing Rent Review program could provide for the establishment of rents for a complete building rather than for a portion of the units within a building, as at present. It could provide for a rate of return on investment in rental accommodation that was sufficient to ensure continuing investment and certain classes of rental accommodation, such as luxury buildings, buildings offering long term leases and limited dividend units, could be excluded. New construction could also continue to be exempt.

Under this example, a board or tribunal would not be established to resolve residential tenancy disputes, however, certain legislative changes such as those discussed in Chapter VI would be made to The Landlord and Tenant Act.

The requirement for subsidies for the production of rental accommodation would be the highest in this example in order to ensure a continuing supply of rental housing. This would be so both because of the negative impact of continuing controls on private rental investment and because of continuing problems arising from a lack of quick access to resolution of landlord and tenant disputes.

Rent Review
Office locations

Office and area served	Office location
Metro Toronto	
City of Toronto	Ontario Rent Review 77 Bloor St. W., 2nd Fl. Toronto M5S 1M2 Tel. 964-8281
Etobicoke	Ontario Rent Review 56 Aberfoyle Cres., 4th Fl. Etobicoke M8X 2W4 Tel. 236-2681
East York	Ontario Rent Review 1880 O'Connor Dr., 2nd Fl. Toronto M4A 1W9 Tel. 752-0683
North York	Ontario Rent Review 45 Sheppard Ave. E. Willowdale M2N 2Z8 Tel. 226-6303
Scarborough	Ontario Rent Review 2100 Ellesmere Rd. E. Scarborough M1H 3B7 Tel. 438-3452
York	Ontario Rent Review 702 Weston Rd. Toronto M6N 3R2 Tel. 762-7545
Central East	
Barrie, for the County of Simcoe and the District Municipality of Muskoka	Ontario Rent Review 110 Dunlop St. E. Barrie L4M 1A5 Tel. 737-2111
Mississauga, for the Regional Municipality of Peel, South of the 401	Ontario Rent Review 1310 Dundas St. E. Mississauga L4Y 2C1 Tel. 270-3280
Brampton, for the Regional Municipality of Peel, North of the 401	Ontario Rent Review Room 1 85 Kennedy Rd. S. Brampton L6W 3G1 Tel. 453-7372
Oshawa, for the Regional Municipality of Durham	Ontario Rent Review 74 Simcoe St. S., 2nd Fl. Oshawa L1H 4G6 Tel. 579-4421
Peterborough, for the Counties of Peterborough, Northumberland, Victoria, and Haliburton.	Ontario Rent Review 340 George St. N. Peterborough K9H 7E8 Tel. 743-9511
Richmond Hill, for the Regional Municipality of York	Ontario Rent Review 10255 Yonge St., 2nd Fl. Richmond Hill L4C 3B2 Tel. 884-6092
Central-West	
Hamilton, for the Regional Municipalities of Hamilton-Wentworth, Halton Haldimand-Norfolk, and the County of Brant	Ontario Rent Review 55 Hess St. St., 21st Fl. Hamilton L8P 4R8 Tel. 528-8701
Kitchener, for the Regional Municipality of Waterloo and the Counties of Wellington and Dufferin	Ontario Rent Review 30 Duke St. W. Kitchener N2H 3W5 Tel. 579-5790
St. Catharines for the Regional Municipality of Niagara	Ontario Rent Review 80 King St., 4th Fl. St. Catharines L2R 7G1 Tel. 684-6562
Eastern	
Belleville, for the Counties of Hastings and Prince Edward	Ontario Rent Review Suite 204 210 Dundas St. E. Belleville K8N 5G8 Tel. 966-4451
Cornwall, for the Counties of Stormont, Dundas & Glengarry, and Prescott & Russell	Ontario Rent Review 4 Montreal Rd., 3rd Fl. Cornwall K6H 1B1 Tel. 933-8662
Kingston, for the Counties of Frontenac, Lennox & Addington, Leeds & Grenville, and that portion of Lanark County lying west of Highway 29, exclusing the towns of Carleton Place (see Ottawa) and Smiths Falls (see Ottawa)	Ontario Rent Review 74 Brock St., 2nd Fl. Kingston K7L 1R9 Tel. 549-4426
Ottawa, for the Regional Municipality of Ottawa-Carleton plus that portion of Lanark County lying east of Highway 29, including the towns of Carleton Place and Smiths Falls.	Ontario Rent Review 265 Carling Ave., 4th Fl. Ottawa K1S 2E1 Tel. 238-5055
Pembroke, for the County of Renfrew	Ontario Rent Review 169 William St. Pembroke K8A 1N7 Tel. 735-0135

Office and area served	Office location
Northeastern	
North Bay, for the Districts of Nipissing and Parry Sound	Ontario Rent Review 215 Oak St. E. North Bay P1B 8P8 Tel. 476-1231
Saulte Ste. Marie, for the District of Algoma	Ontario Rent Review 421 Bay St., 2nd Fl. Sault Ste. Marie P6A 1X3 Tel. 942-1123
Sudbury, for the Regional Municipality of Sudbury and Districts of Sudbury and Manitoulin	Ontario Rent Review 45 Elm St. E., 4th Fl. Sudbury P3C 1S3 Tel. 673-7173
Timmins, for theDistricts of Cochrane and Timiskaming	Ontario Rent Review 273 Third Avenue, 2nd Fl. Timmins P4N 1E2 Tel. 264-9555
Northwestern	
Kenora, for the Districts of Kenora and Rainy River	Ontario Rent Review 37 Main St. S., 2nd Fl. Kenora P9N 1S8 Tel. 468-3159
Thunder Bay, for the District of Thunder Bay	Ontario Rent Review 435 James St. S., 3rd Fl. Thunder Bay P7E 6E3 Tel. 475-1595
Southwestern	
London, for the Counties of Middlesex, Oxford, Elgin, Lambton, Perth and Huron	Ontario Rent Review 80 Dundas St. London N6A 2P3 Tel. 673-1660
Owen Sound for the Counties of Grey and Bruce	Ontario Rent Review 896 3rd Ave. E., 2nd Fl. Owen Sound N4K 2K5 Tel. 376-3202
Windsor, for the Counties of Essex and Kent	Ontario Rent Review 251 Goyeau St., 6th Fl. Windsor N9A 6V2 Tel. 253-3532